JPRS-EER-91-162-S
30 OCTOBER 1991

Foreign Broadcast Information Service 50 ANNIVERSARY 1941 - 1991

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JPRS-EER-91-162-S *30 October 1991*

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Law on High Judicial Council

91BA1165A Sofia DURZHAVEN VESTNIK in Bulgarian No 74, 10 Sep 91 pp 1-2

["Text" of Law on the High Judicial Council adopted by the Grand National Assembly on 21 August and signed by Deputy Chairman Gin'o Ganev for Assembly Chairman Nikolay Todorov]

[Text]

Ukase No. 264
of President of the Republic Zhelyu Zhelev
issued in Sofia on 27 August 1991
and stamped with the state seal

In accordance with Article 98, Point 4, of the Constitution of the Republic of Bulgaria, I hereby decree that the Law on the High Judicial Council, passed by the Grand National Assembly on 21 August 1991, be published in DURZHAVEN VESTNIK.

Law on the High Judicial Council

Article 1. The High Judicial Council is the collective authority of the judicial branch.

Article 2. (1) The High Judicial Council consists of 25 members—jurists with high professional and moral qualities and no less than 15 years of legal experience.

(2) The president of the Supreme Court of Appeals, the president of the Supreme Administrative Court, and the prosecutor general are ex-officio members of the High Judicial Council.

(3) The National Assembly elects 11 of the members of the High Judicial Council. During their term of office they may not be national representatives or members of political parties.

(4) Practicing lawyers may not be elected members of the High Judicial Council.

Article 3. (1) Eleven of the High Judicial Council members are elected by the judicial branch.

(2) Judges elect five and prosecutors and examining magistrates each three among their members as members of the High Judicial Council. The election takes place at separate delegate meetings with one delegate represents 10 people. The decisions are passed by simple majority with secret balloting. If less than five individuals remain, no delegate is elected.

(3) The elected delegates must have no less than 10 years experience as judges, prosecutors or examining magistrates, or have held positions of equal status.

(4) The delegates are elected by court district, at separate meetings of all judges, prosecutors, and examining magistrates, including the military. The Supreme Court of Appeals, Supreme Administrative Court, prosecutor general's office, National Investigation Service, appellate courts, and the prosecutor's offices of appellate courts elect their delegates at separate meetings.

Article 4. The term of office of the elected members of the High Judicial Council is five years. They may not serve more than two consecutive terms.

Article 5. (1) An elected member may be relieved of his duties before the expiration of his term by decision of the High Judicial Council, in the following cases:

1. At his request;
2. In the case of an enacted sentence for a premeditated crime;
3. In the case of lasting disability for more than one year.

(2) The ex-officio members of the High Judicial Council may not be released as long as they hold their positions as per Article 2, Paragraph 2.

Article 6. New High Judicial Council members are elected in accordance with the procedure governing elections for filling vacancies for the remainder of the term.

Article 7. The members of the High Judicial Council are remunerated for participating in the sessions. The amount of the remuneration is set by the Council.

Article 8. The Ministry of Justice provides the administrative services needed by the High Judicial Council.

Article 9. (1) The sessions of the High Judicial Council are chaired by the minister of justice who does not participate in the voting. In his absence, the sessions are chaired sequentially by the members of the High Judicial Council, as per Article 2, Paragraph 2.

(2) The High Judicial Council must meet no less than once every three months, as convened by its chairman or on the request of one-fifth of its members.

(3) Decisions are adopted by simple majority, with open balloting, unless otherwise stipulated by the Constitution or the law.

Article 10. The High Judicial Council:

1. Submits proposals to the president of the Republic concerning the appointment of the president of the Supreme Court of Appeals, the president of the Supreme Administrative Court, and the prosecutor general;

2. Submits to the president of the Republic, for purposes of nomination, the name of the director of the National Investigation Service. The president may not refuse the appointment or release of the individual in the case of a repeated submission as per Items 1 and 2;

3. Determines the number, judicial districts, and centers of the district, okrug, military and appellate courts as proposed by the minister of justice;

4. Determines the number of judges, prosecutors, and examiners for all courts, prosecutor's offices, and investigation departments;

5. Appoints, promotes, demotes, transfers, and relieves of their duties judges, prosecutors, and examining magistrates, and sets their salaries;

6. Passes resolutions on lifting the immunity of a judge, prosecutor, or examining magistrate in the cases stipulated in the law;

7. Rules on appeals of resolutions pertaining to disciplinary matters in the cases stipulated in the law;

8. Adopts the budget for the judiciary and submits it to the National Assembly for its approval;

9. Requests the necessary information from courts, prosecutor's offices, and investigation departments.

Article 11. (1) The members of the High Judicial Council submit nominations for president of the Supreme Court of Appeals, president of the Supreme Administrative Court, and prosecutor general, as well as the director of the National Investigation Service, followed by secret balloting.

(2) The decision as per Paragraph 1 must be passed by simple majority of the total number of all members of the High Judicial Council.

(3) If no more than one-half of the votes of all members of the High Judicial Council have been cast in the first round, a second round of balloting is held for the two candidates for each position as per Paragraph 1, who have garnered the highest number of votes.

(4) In drafting a new motion, should the president of the Republic refuse to appoint a candidate proposed by the High Judicial Council, the election takes place in accordance with the stipulations of the preceding paragraphs.

Article 12. (1) Proposals on determining the number of judges, prosecutors, and examining magistrates as per Article 10, Point 4, and for the appointment, promotion, demotion, transfer and release of duty of judges, prosecutors, and examining magistrates as per Article 10, Point 5, are submitted to the High Judicial Council, as follows:

1. By the president of the Supreme Court of Appeals, for judges of the same court;
2. By the president of the Supreme Administrative Court, for judges of the same court;
3. By the prosecutor general, for prosecutors in the prosecutor's general office;
4. By the director of the National Investigations Service, for investigators in that service;
5. By the presidents of the Courts of Appeal and the military courts, for the judges in those courts;
6. By the presidents of the okrug courts, for judges of okrug and district courts;
7. By the heads of the appeals and military prosecutors offices, for the prosecutors of these offices;
8. By the managers of the okrug prosecutors offices, for prosecutors in okrug and district prosecutors offices;
9. By managers of the investigations departments, for investigators in the same departments.

(2) Decisions as per Paragraph 10, Item 5, are passed by simple majority of the total number of members of the High Judicial Council with secret balloting.

Article 13. The High Judicial Council must issue a ruling within three days of receiving the request to lift the immunity of a judge, prosecutor, or investigator.

Article 14. The High Judicial Council appoints by lots a five-member court for each session, to rule on appeals to decisions relative to disciplinary cases filed against judges, prosecutors, or investigators.

Article 15. The High Judicial Council issues regulations governing its activities.

Provisional and Concluding Stipulations

1. Until a Supreme Court of Appeals and a Supreme Administrative Court have been elected, the ex-officio members of the High Judicial Council act as president of the Supreme Court and president of the Civil Collegium of the same court.

2. (1) The members of the High Judicial Council must be elected within one month following the enactment of this law.

(2) One of the justices elected at the meeting of delegates must be a member of the Supreme Court.

(3) Following the election of members of the High Judicial Council, the Council will be considered constituted and will undertake the implementation of its obligations.

Regulation on Proprietorship With State Property

91BA1035A Sofia DURZHAVEN VESTNIK in Bulgarian 16 Aug 91 No 67 pp 4-5

[Council of Ministers Resolution No. 152 of 2 August adopting the regulation on the management of sole proprietorship with state property]

[Text]

Council of Ministers Resolves:

Article 1. To adopt the Regulation on the Administration of Sole Proprietorships With State Property.

Concluding Stipulation

The commissions as per Article 4, Paragraph 2, Item 1 of the Regulation shall be appointed within 10 days of the date of the enactment of the present resolution.

—Council of Ministers chairman: Dimitur Popov

—Council of Ministers general secretary: Ivan Minev

Regulation on the Management of Sole Proprietorships With State Property

Article 1. This regulation settles the procedure for drafting and concluding contracts assigning the management (subsequently referred to as "contracts") of sole proprietorships with state property.

Article 2.1. On the basis of the contract the manager undertakes to attain certain economic, ecological, and social results as assigned by the principal, for a certain remuneration, and the commitment of the other side to grant him the right to manage a certain individual commercial company for a term not to exceed three years.

2.2. The prerequisites and procedure for terminating the concluded contracts, as well as the responsibilities of the parties in violating the contractual stipulations are settled in the respective contracts.

2.3. The contracts are concluded:

1. For the management of the sole proprietorship companies with limited liability, by the respective minister or department head, on behalf of the Council of Ministers;
2. For the management of the sole owner corporations by the board of directors (in the case of a one-level management system) or, respectively, the administrative council, with the approval of the supervisory council (in a two-level management system), subsequent to the approval of the respective minister or department manager.

Article 3. The drafting of the contract includes the following:

1. An analysis of the condition of the enterprise (economic, technological, administrative) and a definition of the main management problems;
2. Setting and defining the basic strategic objectives and expected results of managing the enterprise;
3. Defining the basic requirements to be met by the manager in accordance with the contract;
4. Formulating the draft contract.

Article 4.1. The activities as per Article 3 are carried out officially by the respective ministry or department within 15 days from the announcement of the initiation of the procedure as per Article 5.

4.2. The choice of a manager is made by:

1. Sectorial (departmental) commissions consisting of five to seven members, should the state enterprise be a sole proprietorship commercial company with limited liability;
2. The appointed board of directors (in a one-level management system) or the administrative council (in a two-level management system) if the state enterprise is sole owner corporation.

4.3. The chairman and the members of the commissions as per Item 1 of Paragraph 2 are appointed by order of the respective minister or department head. The commissions include specialists in the respective sectors and subsectors, including lawyers who have not applied for a contract.

4.4. A representative of the enterprise (chief accountant or any other specialist) and one representative each of the trade unions in the respective enterprise participate as observers or else submit their views in writing at the meetings of the authorities as per Items 1 and 2 of Paragraph 2. These representatives may not be applicants for a contract.

Article 5.1. The principal or his authorized representative announce in DURZHAVEN VESTNIK and in other mass information media the initiation of the procedure for the conclusion of a contract and the basic stipulations to be met by the candidates.

5.2. The document must be submitted within five working days. The period begins on the 16th day following the publication of the announcement in DURZHAVEN VESTNIK.

5.3. The respective ministry or department submits the information which is an analysis of the condition of the enterprise, the latest annual profit and loss statement, the specific requirements for the candidates and the main clauses of the draft contract to individuals who have applied to be awarded a management contract.

Article 6.1. The principal may also directly address himself to juridical persons he has selected in advance, whether in the country or abroad, who may not be less than two. In that case the stipulations of Article 4 apply.

6.2. In formulating the prerequisites and requirements to be satisfied by the accepted candidates—juridical persons—the principal may formulate specific requirements also concerning the individual who will perform the functions of manager.

Article 7.1. With the agreement of the foreign juridical or physical person, the contract may stipulate the employ of a Bulgarian physical person, who will duplicate the functions of the foreign manager. That person may not assume the functions of the foreign manager.

7.2. The duplicate manager is named in accordance with the stipulated procedure for the choice of a manager, with the agreement and participation of the designated foreign manager.

Article 8. If the candidate is a physical person (Bulgarian or foreign) he must submit the following documents: document for completed suitable higher training; medical certificate; a police record and a reference describing in chronological sequence previously held positions.

Article 9.1. If the candidates for a management contract are juridical persons, the documents they must submit are the following:

1. Bulgarian juridical persons: constituent documents (registration documents) and bank references; the latest annual profit and loss statement; the list of companies with which they hold or have held a management contract; if possible, company references;
2. Foreign juridical persons: official transcript-excerpt from the respective national registration, issued by a competent authority according to national laws and certified by the embassy of the Bulgarian Republic in the respective country; bank references; list of companies with which they hold or have held management contracts; references from such companies. The documents must be accompanied by a legalized translation into the Bulgarian language.

9.2. The documents indicated in Items 1 and 2 of Paragraph 1 must be submitted no earlier than 45 days before the date of their presentation to the principal.

Article 10.1. The authorities stipulated in Paragraph 2 of Article 4 make the preliminary selection among candidates by comparing the information on their documents with the advertised requirements.

10.2. The preliminary selection must be made within three working days prior to the deadline for the submission of the document.

Article 11.1. Candidates who have passed the preliminary selection are admitted to talks for the conclusion of a contract; there must be no fewer than two candidates.

11.2. Should the number of candidates be fewer than two, the principal announces once again the opening of a procedure for the conclusion of a contract as per Article 5, Paragraph 1, within three days of the expiration of the deadline as per Article 10, Paragraph 2. In that case a single candidate becomes admissible.

11.3. Within 20 days from the day of the preliminary selection, the candidates must submit their plans and suggestions for resolving existing problems and their views on the draft contract. During that period they have the right to the on-site familiarization and study of the project for the management of which they are applying, and request additional information during days or hours of the days stipulated by the authorities as per Article 4, Paragraph 2 (but no less than two days, eight hours daily).

Article 12.1. Following the 20-day deadline as per Paragraph 3 of Article 11, the authorities as per Article 4, Paragraph 2, shall discuss the submitted plans and proposals and discuss the contract stipulations separately with every candidate.

12.2. Following the completion of the talks with all candidates present, the authorities as per Article 4, Paragraph 2, shall submit a draft resolution on awarding the management. The resolution must be passed by open vote with a two-third majority of the total number of members of the respective authority.

12.3. The activities as per Paragraphs 1 and 2 must take place no later than 10 days following the submission of the drafts and proposals by the candidates.

12.4. The authorities as per Article 4, Paragraph 2, shall make public their decision on assigning management accompanied by the reasons for it within the two days which follow the conclusion of the talks. The draft resolution shall be reported in writing to all candidates who participated in the talks.

Article 13.1. In the case of violations of the procedure as per Articles 5-12, the interested individuals may submit detailed objections within three days, addressed to the respective minister or the head of any other department.

13.2. The minister or department head must issue a ruling on the objections within five days following the expiration of the deadline as per Paragraph 1.

13.3. In cases of established procedural violations, the respected minister or department head must request a repeat procedure. The culpable officials bear disciplinary liability unless their action does not constitute a crime.

Article 14. The contracts must be signed in accordance with the stipulations of Article 2, Paragraph 3, within two days following the expiration of the deadline for the submission of objections, providing that no such objections were filed, or after the expiration of the deadline for the consideration of disputes in the cases in which the procedure is not repeated.

Article 15. The contract becomes effective after the the name of the manager has been recorded in the commercial register and the the name of the provisional or acting manager has been deleted.

Concluding Stipulation

The present regulation is issued on the basis of Article 1, Paragraph 3, of the Law on the Establishment of Sole Proprietorships With State Property.

Law on Local Self-Management and Administration

92BA0003A Sofia DURZHAVEN VESTNIK in Bulgarian No 77, 17 Sep 91 pp 1-8

["Text" of Law on Local Self-Management and Local Administration adopted by the Grand National Assembly on 6 September and signed by Assembly Chairman Nikolay Todorov]

[Text]

Ukase No. 274
of President of the Republic Zhelyu Zhelev
issued in Sofia on 11 September 1991
and stamped with the state seal

In accordance with Article 98, Point 4, of the Constitution of the Republic of Bulgaria, I hereby decree the publication in DURZHAVEN VESTNIK of the Law on

Local Self-Management and Local Administration, adopted by the Grand National Assembly on 6 September 1991.

Law on Local Self-Management and Local Administration

Chapter 1

General Stipulations

Article 1. The present law deals with social relations in the area of local self-management and local administration.

Article 2. (1) The territory of the Republic of Bulgaria is divided into municipalities, okoliyas, oblasts, and the Sofia Greater Municipality.

(2) By decision of the municipal council, administrative-territorial rayons are created in cities with a population of over 300,000, in which rayon councils are elected.

Article 3. (1) Administrative-territorial units are set up consistent with the historical, geographic, economic, social, demographic, and ecological conditions of the territory.

(2) The establishment and abolishment of administrative-territorial units is based on a law, subsequent to a popular referendum.

Article 4. (1) In establishing a new municipality, elections for a municipal council must be held within three months of the passing of the resolution.

(2) In the cases stipulated in Paragraph 1, the oblast manager appoints a temporary mayor, whose rights are terminated with the election of a mayor.

Article 5. The municipality is the basic administrative-territorial unit of local self-management.

Article 6. The okoliya is the administrative-territorial unit consisting of several municipalities. It performs the functions of self-management through a delegated representation of the municipalities (okoliya council of municipalities) and state functions exercised by the okoliya manager and the agencies and services of the central state authority organized in the okoliya center.

Article 7. The oblast is set up for administrative purposes and does not include elected agencies of local self-management. Agencies and services of the central state authority may be set up in the oblast center.

Article 8. (1) The Greater Sofia Municipality is a specific administrative-territorial unit within which the self-management of its population is combined with the implementation of the state policy for the development of the capital city.

(2) The divisions and the structure of the Greater Sofia Municipality are defined in a separate law.

Article 9. The administrative-territorial units may form voluntary associations in order to resolve problems of common interest.

Chapter 2

The Municipality

Article 10. (1) The territory of the municipality is that of the land of the one or several settlements within it.

(2) The municipal land area must be approved by the chairman of the Council of Ministers, in accordance with the stipulations of the Cadastral Law.

(3) Territorial disputes among municipalities must be adjudicated by the court.

Article 11. The following basic stipulations must be observed in the creation of a municipality:

1. The population's decision for self-management, expressed through a referendum, a resolution by a general assembly, or any other form of manifestation of the population's will as stipulated by the law;

2. The existence of a cadre potential, consistent with the mandatory legal standards which must be met by the personnel of local state agencies;

3. Possibility of implementing the functions and prerogatives stipulated by this law.

Article 12. Each municipality must take the name of the settlement in which its administrative center is located.

Article 13. Residents of the municipality are all the citizens who reside on its territory and are registered in the demographic records.

Article 14. The municipality is a juridical person with the right to own property and with an independent municipal budget.

Article 15. The municipal council may create its own agencies and services in the individual settlements and districts.

Article 16. The municipalities may adopt their symbols and honorific titles in accordance with the law.

Article 17. The citizens participate in local self-management by making decisions directly by holding general meetings, referendums, or by any other means, in dealing with local issues, or through the authorities they have elected, which formulate and implement local policy in accordance with the population's interests.

Chapter 3

Municipal Council

Article 18. The municipal council is the local self-management authority. It is elected by the municipal residents in accordance with the stipulations and procedures stipulated by the law.

Article 19. (1) The municipal council consists of the following:

1. Nine council members, for a municipal population of 1,000 or less;

2. Fifteen council members, for a municipal population of no more than 2,000;

3. Twenty-one council members, for a municipal population of no more than 5,000;

4. Thirty-three council members, for a municipal population of no more than 20,000;

5. Forty-five council members, for a municipal population of no more than 50,000;

6. Fifty-one council members, for a municipal population of no more than 100,000;

7. Sixty-five council members, for a municipal population in excess of 100,000.

(2) The Sofia Municipal Council shall have 101 council members.

(3) The mayors of the individual settlements participate in the work of the municipal council in an advisory capacity.

Article 20. The municipal council formulates the policy of the municipality relative to its buid-up and development; it resolves local problems related to the economy, environmental protection, health, social, educational, cultural, and communal activities, the territorial-settlement structure, municipal property, trafic safety, and public order. It also deals with other issues which are not under the exckusive jurisdiction of other authorities. In the cases stipulated by the law it also performs the functions entrusted to it by the central agencies of the state.

(2) The rayon councils deal with issues related to the daily needs of the population, administrative services to the people, and the urbanization and hygiene of the territory.

Article 21. The municipal council:

1. Determines the structure of the council and the administrative services;

2. Adopts regulations on the work of the council, the standing commissions and the executive apparatus;

3. Passes resolutions on the acquisition, management and disposal of municipal property and determines the authority of the mayor in such areas. If a resolution calls for the sale of land outside the town-planning scheme, it must be subject to a popular referendum;

4. Adopts municipal development plans;

5. Formulates the specific requirements governing the activities of enterprises, organizations and establishments functioning on municipal territory;

6. Defines the prerequisites for the use of the municipal infrastructure by the population and by enterprises, organizations, and establishments;

7. Sets the local taxes and fees within the limitations of the law;

8. Adopts the municipal budget and the annual report, and supervises the execution of the budget;

9. Adopts the general and detailed municipal territorial-structure plans;

10. Passes resolutions on setting up associations and on the founding, reorganization, or termination of the activities of municipal enterprises;

11. Makes decisions on holding referendums or general population meetings on issues within the authority of the council;

12. Names sites of local significance;

13. Organizes and implements measures to improve traffic safety.

Article 22. (1) The municipal council issues ordinances, resolutions, and instructions on issues of local significance.

(2) The municipal council issues ordinances on issues of local significance pertaining to communal activities, maintenance of public order, use of municipal property, and environmental protection.

(3) Fines not to exceed 5,000 leva may be levied for ordinance violations; repeated violations may also entail a temporary loss of the right to practice a certain profession or activity.

(4) Penal resolutions are promulgated by the mayor of the municipality or his deputy, on the basis of a legal act drawn up by the officials stipulated in the ordinance.

(5) Administrative-penal procedure is based on the Law on Administrative Violations and Punishments.

Article 23. (1) The new municipal council is summoned to its first session by the okoliya manager within 14 days of its election.

(2) The municipal council may be summoned to a meeting by its chairman, as follows:

1. On his own initiative;

2. By request of one-third of the municipal council members;

3. By request of one-fifth of the voters in the municipality;

4. By request of the okoliya manager.

5. By request of the oblast manager.

Article 24. (1) The municipal council elects one of its members as council chairman. The election is held by secret balloting. The candidate who has garnered no less than one-half plus one of the votes of all council members is considered elected.

(2) If no candidate has been elected in the first round, a second round of balloting is held, for the two candidates with the highest number of votes. The candidate who obtains the highest number of votes is considered elected.

(3) The authority of the chairman of the municipal council is terminated with the expiration of the council's mandate.

Article 25. The municipal council chairman:

1. Convenes the municipal council;

2. Supervises the preparations for the council's sessions;

3. Chairs the council's sessions;

4. Coordinates the work of the standing commissions;

5. Assists the municipal council members in their activities;

6. Represents the municipal council in dealing with outside individuals and organizations;

7. Maintains the ties between the council and the political parties, public organizations, and movements, as well as with the other local self-management authorities, domestic and foreign.

Article 26. Depending on the size of the municipality and the amount of the work it does, the chairman of the municipal council may be remunerated for full-time or part-time work.

Article 27. (1) The sessions of the municipal council are valid if attended by more than one-half of all council members.

(2) The resolutions of the municipal council are passed by simple majority of the total number of council members, by open balloting. The council may rule in favor of secret balloting as well.

(3) The resolutions are announced to the population.

Article 28. The meetings of the municipal council are public. The council may resolve to hold some meetings in executive session.

Article 29. Minutes are kept for all sessions of the municipal council. The municipal council members have the right to review the minutes within seven days of the day of the session and demand corrections to the minutes. In the case of arguments, the question is resolved by the council at its next session.

Chapter 4

The Municipal Councilor

Article 30. (1) The authority of the municipal council member is vested in him as of the day of his election and is terminated with the expiration of the term of office of the municipal council.

(2) The validity of the election of a municipal council member may be appealed to the okrug court within 14 days of the day of the election.

(3) The authority of the municipal council member may be terminated ahead of schedule in the following cases:

1. In case of juridical disability;

2. If the council member has been sentenced to deprivation of freedom for a premeditated crime and the sentence has been executed;

3. If he resigns;

4. If he is elected mayor or deputy mayor;

5. In the case of lasting impossibility or systematic nonimplementation of obligations for more than six months;

6. In case of death.

(4) A resolution on terminating the mandate of a municipal council member must be adopted by the municipal council. A resolution as per Item 5 may be appealed to the okrug court.

Article 31. The municipal council member may not assume a paid position in the respective municipal council, with the exception of that of chairman of the municipal council.

Article 32. (1) At the first session, the municipal council member must swear the following oath:

"I swear in the name of the Republic of Bulgaria to obey the Constitution and the laws of the country and to be guided in all my actions by the interest of the citizens of the ... municipality and to work for their well-being."

(2) A municipal council member who does not swear such an oath forfeits his mandate.

Article 33. A municipal council member has the right:

1. To be elected member of standing or temporary council commissions;

2. To propose the inclusion in the session's agenda of the municipal council the consideration of problems within the authority of the council and to submit draft resolutions;

3. To participate in the discussion and resolution of all issues within the jurisdiction of the council;

4. To submit queries to the mayor. The queries must be answered orally or in writing at the same session, unless otherwise resolved by the council;

5. To obtain from state authorities or economic and public organizations information and documents needed in connection with his activities as a council member, unless such information is classified as official secret.

Article 34. (1) The municipal councilor will be granted office leave for the time spent in connection with his activities as a council member, in accordance with the procedure stipulated in the regulation on the council's work.

(2) The municipal council member will be paid his full labor wages for the length of his participation in the meetings of the council or the standing commission. The employer will be compensated from municipal budget funds.

(3) Traveling and other expenses incurred by the municipal council member in connection with his council work will be paid out of the municipal budget.

Article 35. The municipal council member may not be relieved or dismissed from his steady employment for the duration of his term, other than in the cases stipulated in Article 330, Paragraphs 1 and 2, Points 2, 3, 4, and 6 of the Labor Code.

Article 36. The municipal council member has the following duties:

1. To attend the meetings of the municipal council and the standing commissions to which he has been elected, and to participate in the resolution of problems under discussion;

2. To be in touch with his electorate and inform the people of the activities and decisions of the municipal council.

Article 37. The municipal council member may not participate in the making of decisions affecting his private interests or the interests of his spouse or blood relatives or lateral-branch relatives, four times removed inclusive.

Chapter 5

Mayors and Municipal Administration

Article 38. (1) The mayor is the executive authority of the municipality. The mayor of the municipality and the mayors of the settlements are elected directly by the population under the conditions and procedures stipulated in the law. The municipal council determines the settlements where mayors may be elected.

(2) At the first session of the newly elected municipal council the mayors swear an oath as per Article 32, Paragraph 1, of this law.

Article 39. By proposal of the mayor, the municipal council elects, by secret vote, one or several deputy mayors. The candidates who have obtained at least one-half plus one of the total number of votes of the council members are considered elected.

Article 40. The mayors of the individual settlements within the municipality represent the municipality. The functions of the mayor of a settlement which is a municipal center are performed by the mayor of the municipality.

Article 41. (1) Individuals with no less than secondary school education may be elected mayors or deputy mayors of a municipality. They may not be membersof the leaderships of political parties or commercial companies for the duration of their term.

(2) Individuals who are not council members may be elected deputy mayors. The mayor and the deputy mayors participate in the sessions of the council on an advisory capacity.

Article 42. (1) The mandate of a mayor or deputy mayor may be terminated ahead of schedule in the following cases:

1. If they submit their resignation to the municipal council;

2. In the case of lasting impossibility to perform their functions for a period in excess of six months;

3. In the case of an enacted court sentence imposing the penalty of deprivation of freedom for a premeditated crime;

4. In case of death.

(2) In the case of a premature termination of the term of the mayor of a municipality, until new elections have taken place his functions are assumed by the deputy mayor or the chairman of the municipal council, by decision of the municipal council.

(3) If the mandate of the mayor of a settlement is terminated, by decision of the municipal council an interim official is appointed to fill the position until new elections are held.

(4) The premature termination of the mandate of a deputy mayor of the municipality as per Paragraph 1 must be based on a resolution passed by the municipal council by simple majority of the total number of council members.

Article 43. (1) The mayor of the municipality appoints a municipal secretary for an indefinite term of service.

(2) The secretary must have no less than secondary-school education. He cannot be a member of the municipal council or be part of the managing authorities of political parties or commercial companies.

(3) The municipal secretary organizes the municipal administration and its activities.

Article 44. (1) The mayor of the municipality:

1. Guides the overall executive activities of the municipality;

2. Directs and coordinates the activities of the specialized executive authorities;

3. Appoints and dismisses headfs and personnel of the executive apparatus of the municipal council and imposes disciplinary penalties as stipulated by the law;

4. Is responsible for the maintenance of public order; in order to ensure it, he may issue orders which are binding to the chiefs of the respective rayon police administrations and, in Sofia, the director of the Sofia Internal Affairs Directorate;

5. Organizes the execution of the municipal budget;

6. Organizes the implementation of long-term programs;

7. Organizes the execution of the municipal council's resolutions;

8. Organizes the implementation of tasks based on the laws, the legal acts of the president of the Republic, and the Council of Ministers;

9. Coordinates and supervises the legality of the activities of mayors in the individual municipal settlements;

10. Maintains contacts with political parties, public organizations, and movements, as well as other local self-management authorities in the country and abroad.

(2) The mayor of the municipality may issue orders in accordance with his authority.

(3) The orders as per Paragraph 1, Point 4, may be appealed by the heads of the rayon police administrations to the oblast manager or, respectively, the director of the Sofia Directorate of the Ministry of Internal Affairs, who may appeal such orders to the minister of internal affairs within a period of three days. Decisions made by the oblast manager or, respectively, the minister of internal affairs, may not be appealed.

Article 45. (1) The municipal council may void legal acts issued by the mayor in violation of its resolutions, as per Article 21.

(2) The mayor of the municipality may oppose a resolution of the municipal council, should he believe that it conflicts with the interests of the municipality or violates the law. His objection must be submitted in writing within seven days and can stay the decision. If the municipal council confirms its resolution a second time the mayor must either execute it or, should it violate the laws, submit the matter to the court.

Article 46. (1) The mayors of the individual settlements within the municipality perform the functions stipulated in the regulation on the work of the municipal council, depending on the specific structure of the municipal council authorities and other features of the municipality and its member settlements.

(2) The following functions are granted as per Paragraph 1 of the regulation:

1. The execution of the budget of the municipality in the part pertaining to the settlement;

2. Providing administrative and other services to the population;

3. Upholding public order;

4. Organizing urban, communal, and other projects;

5. Managing the land, waters, and other municipal properties;

6. Organizing the protection of the fields;

7. Taking measures to improve and restore the environment;

8. Maintaining the cleanliness and hygiene of the settlement.

Article 47. The personnel of the municipal administration have the status of state officials.

Chapter 6

Permanent Commissions of the Municipal Council

Article 48. The municipal council elects from its council members standing and temporary commissions which may also include other specialists.

Article 49. (1) The standing commissions have the following tasks:

1. To study the needs of the population in the respective area and submit suggestions on the resolution of problems;

2. To assist the municipal council in drafting resolutions on problems submitted for discussion and resolution;

3. Supervise the implementation of the resolutions of the municipal council.

(2) In the fulfillment of their functions the standing commissions may recruit outsiders as experts or consultants.

Article 50. The standing commissions may receive suggestions and recommendations on issues under consideration, which are passed on to the municipal council and the respective interested individuals.

Chapter 7

Municipal Property and Finances

Article 51. (1) The municipality has ownership rights; the scope and ways of acquisition of property are regulated by the law.

(2) The municipal property is recorded in books; legal acts are drawn up for such property in accordance with the procedure stipulated in the regulation as per Article 21, Paragraph 2, of the Law on Ownership. The right to ownership of such property may also be based on a legal act drawn up in accordance with this procedure.

(3) The municipal council may engage in economic activities, open municipal enterprises, and participate in joint forms of economic activities under the conditions and procedures stipulated in the law.

(4) The municipal council may invest property and available funds in economic activities, with the exception of specific state budget subsidy funds.

(5) The municipal council may only participate in forms of economic activities in which its liabilities do not exceed the amount of its participatory share.

Article 52. (1) The municipal council drafts the separate budget of the municipality, independently of the republican budget, on the basis of its own income sources and state subsidie assigned to the municipalities on the basis of the criteria stipulated in the law.

(2) The republican budget may provide funds for the implementation of national policy on the development of some areas of the country, as well as specific funds for specific projects of national significance.

(3) The municipality may use bank loans under the conditions and procedures stipulated in the law, as well as interest-free loans from the budget, under the conditions formulated by the government.

(4) The municipality has the right to issue bonds.

(5) The municipality does not have the right to use loans to meet expenditures of a general nature (payment of wages, running maintenance, etc.).

(6) The interest on loans granted the municipality must be paid out of its current budget.

Article 53. The municipal budget revenue consists of the following:

1. The full amount of local taxes, fees, and other local dues in accordance with the law;

2. The legal share of any other taxes and fees owed to the municipality. If juridical persons have branches in different municipalities, the payments are divided among the respective municipalities.

3. Income from rentals and other property;

4. Subsidies and other targeted funds provided by the Republic budget;

5. Bank loans and specific interest-free loans from the Republic budget;

6. Issued stocks and bonds;

7. Other sources stipulated by the law or with Council of Ministers legal acts.

Article 54. (1) The municipal expenditures are for meeting local needs and needs related to the implementation of state functions.

(2) Expenditures related to the implementation of state functions are paid out of the Republic budget.

(3) The municipal council may provide financial assistance to municipal and other enterprises, the activities of which are related to meeting the population's needs.

Article 55. The municipal budget finances the following:

1. Expenditures, including salaries and insurance payments for the health, social, educational and cultural activities supported by the municipality;

2. Communal activities, construction, expansion, reconstruction, maintenance and current repairs of projects which are owned by the municipality, and expenditures for purchasing municipal property;

3. Joint measures with other councils and payments for the maintenance of the okoliya municipal council;

4. Maintenance of the municipal administration;

5. Providing administrative and technical services to the population, provided free of charge, and construction and cadastral plans;

6. Repayment of loans;

7. Activities related to environmental protection;

8. Investing capitals in economic activities.

Article 56. (1) The municipal council adopts an annual budget which begins and ends with the state fiscal year.

(2) The budget may be amended within the fiscal year by following the same procedure applied in its adoption with the next budget.

(3) If the budget for the new fiscal year has not been passed before the start of the year, until it has passed income is collected and expenditures are made in accordance with the budget for the respective period of the preceding year.

Article 57. The expenditure funds approved on the basis of the municipal budget must be allocated by individual settlement and rayon in accordance with their specific purposes.

Article 58. The municipal budget is public and controlled by the population.

Chapter 8

Okoliya

Article 59. The okoliya is an administrative-territorial unit for exercising the functions of local self-management and of the central state agencies. It take the name of its administrative center.

Article 60. (1) An okoliya council of municipalities may be set up for the purpose of resolving common problems of municipalities concerning their build-up and development.

(2) The okoliya council of municipalities consists of two delegated representatives per municipality.

(3) The length of the mandate of the okoliya council of municipalities is the same as the municipal councils.

Article 61. (1) The okoliya council of municipalities is convened for its first session by the oblast manager within one month of the elections for municipal council members.

(2) At its first session the okoliya council of municipalities elects a council chairman and a secretary from among its members.

(3) The chairman of the okoliya council of municipalities represents the council in its dealing with the municipal councils, the okoliya manager, the oblast manager, and the central state agencies. He chairs the meetings of the council and is responsible for the implementation of its resolutions.

(4) The secretary of the council manages the preparations for the council meetings, drafts its resolutions and monitors their implementation.

Article 62. (1) The chairman of the okoliya council of municipalities may summon the council for a session as follows:

1. On his own initiative;
2. By request of one-fourth of its members;
3. By request of the okoliya manager;
4. By request of the oblast manager.

(2) The meetings of the okoliya council are valid if attended by more than one-half of its members.

(3) The council adopts its resolutions on the basis of a unanimous agreement of its members. The disagreement of some municipalities is not considered an obstacle to the implementation of the resolution by the other interested municipalities.

Article 63. (1) The okoliya council of municipalities:

1. Coordinates the planning and implementation of activities the importance of which exceeds the municipal level;

2. Organizes studies on economic, social and other problems of the okoliya and on the use of its resource potential;

3. Organizes the formulation of specific programs for the development of the okoliya;

4. Formulates the overall territorial-structure policy on okoliya territory and adopts the respective territorial structure plans;

5. Performs functions related to the overall development of the okoliya, such as public transportation, water and power supplies, environmental protection on okoliya territory, etc.;

6. Provides ties with the central departments, directly or through the okoliya or oblast manager, on all problems related to the development of the okoliya and the self-management of the municipalities.

(2) The okoliya council contributes to the creation of a variety of forms of unity among municipalities within the okoliya and with other okoliyas in their interest, as well as in finding ways of financing common projects.

Article 64. The cost of the activities of the okoliya council of municipalities is paid out of contributions made by the respective municipalities, which independently determine their amount.

Article 65. (1) The okoliya manager is the representative of the central state agencies on okoliya territory.

(2) The oblast manager appoints the okoliya manager and his deputy in coordination with the respective okoliya council of municipalities, to a four-year term. If no agreement can be reached, the okoliya manager is appointed by the Council of Ministers.

(3) The okoliya manager may be relieved of his duties ahead of time as per the preceding paragraph.

Article 66. (1) The okoliya manager:

1. Is responsible for the maintenance of legal order in the okoliya; he supervises the activities of the other state agencies, municipal councils, and establishments in the cases stipulated in the law;

2. Coordinates the work of the state agencies on okoliya territory and their relations with the municipal councils and the mayors;

3. Is responsible for the maintenance of public order.

(2) The okoliya manager issues orders within the limits stipulated by the law. Such orders may be appealed to the court by the interested individuals.

(3) The okoliya manager may halt the execution of illegal acts passed by the municipal councils and mayors and report them to the respective court.

(4) The okoliya manager rescinds illegal acts passed by mayors of municipalities and settlements.

Article 67. (1) The okoliya manager is assisted by his deputy and by technical personnel. The cost of their activities is borne by the Republic budget.

(2) The okoliya manager and his deputy may not participate in leading organs of political parties and commercial companies for the duration of their mandate.

Chapter 9

Oblast

Article 68. The oblast is an administrative-territorial unit within which the state authority is decentralized, with a view to the exercise of an efficient regional policy.

Article 69. (1) The oblast is managed by an oblast manager assisted by an oblast administration.

(2) The oblast manager is appointed by the Council of Ministers for a four-year term.

(3) The oblast manager ensures the implementation of the policy of the state. He is responsible for the protection of the national interests, and law and public order, and exercises administrative control.

(4) The oblast manager is assisted by a deputy, appointed by the chairman of the Council of Ministers.

(5) The oblast manager and his deputy may not participate in leading bodies of political parties and commercial companies for the duration of their mandate.

Article 70. (1) No oblast manager is appointed for Sofia.

(2) The functions of oblast manager in Sofia are exercised by the mayor of the Sofia Municipality unless otherwise stipulated by the law.

Article 71. The oblast manager:

1. Organizes the implementation of state policy in the oblast;

2. Is responsible for the observance of the law in the oblast. In cases stipulated by the other laws, supervises the activities of the municipal councils and other state bodies, establishments, organizations and enterprises;

3. Supervises the implementation of the resolutions of the president of the Republic and the chairman of the Council of Ministers;

4. Guides the activities of the okoliya managers within the range of his authority.

Article 72. (1) The oblast manager issues orders within the limits of his authority. His orders may be appealed to the court.

(2) The oblast manager can stop the implementation of illegal acts passed by the municipal councils and report them to the respective okrug court. He may rescind illegal acts of okoliya managers and municipal mayors.

(3) The orders issued by the oblast manager as per the preceding paragraphs may be appealed to the respective court.

Article 73. The cost of the activities of the oblast manager is met by the Republic budget.

Chapter 10

Administrative-Territorial Changes

Article 74. (1) The administrative-territorial division of the country is based on a law.

(2) The administrative-territorial changes, such as closing down, merging, dividing or unifying of administrative-territorial units and settlements are based on ukase issued by the president of the Republic, as proposed by the Council of Ministers.

Article 75. Grounds for administrative-territorial changes:

1. The wish, presented in writing, of more than one-half of the population of the respective settlement, group of settlements, or administrative-territorial units, submitted to the Council of Ministers;

2. A proposal by a state authority for making an administrative-territorial change. In such cases the stipulations of item 1 mandatorily apply.

Chapter 11

Provisional and Concluding Stipulations

1. The present law becomes effective as of its day of publication in DURZHAVEN VESTNIK.

2. (1) The provisional executive committees and provisional managements existing at the enactment of this law continue to exercise their functions on the basis of the rescinded Law on People's councils, until elections for local self-management authorities have been held.

(2) In the case of resignations of members of temporary executive committees or temporary managements, they continue to work with a reduced membership. If the membership falls below the necessary quorum, the Council of Ministers shall appoint a temporary mayor who will perform the functions of a temporary executive committee.

3. (1) In the capital city and in cities with over 300,000 population, which are subdivided into rayons, the only elections held are for municipal councils.

(2) Within six months after the elections, the Council of Ministers must submit a Law on the Structure of the Capital City and the Cities Subdivided Into Rayons.

(3) The temporary executive committees of municipalities in the capital city and the mayoralties in the cities will continue to perform their functions in accordance with the

authority granted to them by the newly elected municipal council, in accordance with the stipulations of this law.

4. The new administrative-territorial division of the Republic of Bulgaria must be completed before the end of 1992 in accordance with the procedure stipulated by the law.

5. The present law rescinds the following:

1. The Law on the People's councils (published, IZVESTIYA No. 95, 1951; amended, Nos, 60 and 68, 1953; No. 100, 1955; Nos. 3, 37, and 54, 1956; Nos. 30, 71, and 74, 1957; No. 90, 1958; No. 22, 1959; DV No. 47, 1964; No. 54, 1969; No. 35, 1972; No. 32, 1977; No. 97, 1978; Nos, 52 and 65, 1980; No. 97, 1987; and Nos. 72 and 88, 1990).

2. The Regulation on Ordinances as Per Article 12a of the Law on the People's councils (published, DV No. 3, 1965; amended, No. 39, 1978).

3. The Regulation on the Application of Article 41 of the Law on the People's councils On the Remuneration and Assignment Payments for Advisors and Members of the Standing Commissions (published DV, No. 64, 1966; amended, No. 60, 1980).

4. Law on the Establishment of Administrative-Territorial Units-Oblasts (published DV, No. 65, 1987; amended, No. 45, 1989).

5. Law on the National Representatives and National council Members, Relative to the Legal Status of municipal council Members in the Part Applicable to municipal council Members (published DV, No. 32, 1977; amended, No. 72, 1981 and Nos. 27 and 87, 1986).

6. Ukase On Instructions by Voters (published DV, No. 12, 1978).

7. Ukase No. 296 on the Rights of Rayon People's councils, as Per Article 5, Paragraph 4, of the Law on the People's councils (DV, No. 19, 1979).

6. Amendments to other laws:

1. Article 6 of the Law on Ownership (published in IZV., No. 92, 1951; amended No. 12, 1958 and No. 90, 1960; DV, No. 99, 1963; Nos. 26 and 27, 1973; Nos, 54 and 87, 1974; No. 55, 1978; No. 36, 1979; No. 19, 1985; Nos. 14 and 91, 1988; No. 38, 1989; and No. 31, 1990) is amended to read as follows:

"6. State property is property declared by the Constitution and the laws as being the exclusive property of the state, as well as any property which it may acquire.

"Municipal property includes the following property:

"1. Property granted by the law as owned by the municipality or included in the statutory capital of municipal companies;

"2. Property acquired with funds paid out of the municipal budget or funds from the nonbudgetary municipal account;

"3. Property developed through the voluntary labor and monetary contributions of the population;

"4. Property acquired with loans received and repaid by the municipality;

"5. Property gifted to or inherited by the municipal council or by individual settlements;

"6. Property regained through restitution;

"7. Property granted by the state free of charge;

"8. Property transferred to municipal ownership in accordance with the provisional stipulations of this law."

2. The following new Article 13a is added to the Law on the Minister of Internal Affairs (DV, No. 57, 1991):

"Article 13a. Relations between the Sofia and Regional Directorate of the Ministry of Internal Affairs and the rayon police administrations with the oblast managers, okoliya managers, and mayors, shall be settled with the Law on Local Self-Management and Local Administration and the Law on the Police."

7. The following state property becomes the property of the municipalities with the enactment of this law:

1. Water sources, including ground and mineral waters used exclusively by the respective municipality, along with water tapping installations and conduits and equipment;

2. Damns, lakes, and their beaches, quarries for inert and other materials of local significance;

3. Undeveloped lots and property in settlement territories, allocated for housing construction, and social, urbanization, and communal facilities, acquired through condemnation, with the exception of those subject to return to their previous owners;

4. The local fourth-grade road network, streets, boulevards, squares, public parking areas in settlements, and landscaped areas for public use;

5. Housing projects built as per Article 117 of the Law on the Territorial and Settlement Structure, for provisional housing or social projects, including those leased to socially weak families;

6. Projects of the municipal infrastructure of local significance, serving the administrative needs of the municipalities, or health, education, cultural, commercial, residential, sports, or communal services;

7. Grids and equipment of the technical infrastructure of the transportation, energy, water, sewer, communications and engineering-protective systems, serving exclusively the territory of the respective municipality and not included in the statutory capital of commercial companies.

8. The implementation of this law is assigned to the chairman of the Council of Ministers.

Law on Bankruptcy, Settlement

91CH0925B Prague SBIRKA ZAKONU in Czech 16 Aug 91 pp 1,430-1,444

["Text" of Law on Bankruptcy and Settlement adopted 16 August and published by the Federal Ministry of the Interior in CSFR LAW GAZETTE]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has passed the following law:

Part One: Introductory Provisions

Section 1

(1) The purpose of this law is the disposition of the assets of a debtor who is bankrupt.

(2) A debtor is bankrupt if he has several creditors and has been unable to repay his obligations, which are due, over a longer period of time.

(3) A physical person who is an entrepreneur, and/or a legal entity is also bankrupt if he or it is overextended.

Section 2

(1) If the debtor is bankrupt, he can initiate bankruptcy proceedings (hereinafter called "bankruptcy") or settlement proceedings (hereinafter called "settlement") at the bankruptcy court (hereinafter called "court") under the conditions stipulated by this law.

(2) The purpose of bankruptcy or settlement is to attain proportional satisfaction for the creditors from the debtor's assets.

Section 3

(1) The kraj or municipal court, in whose obvod the debtor's local court is located has jurisdiction over the proceedings.

(2) The provisions of the Civil Court Code[1] will apply to bankruptcy and settlement unless this law stipulates otherwise.

(3) A sole judge will conduct and make decisions on the proceedings. The court will direct the proceedings only if the law so stipulates or if it considers it to be necessary. The court will make its decisions through a ruling.

Part Two: Bankruptcy

Section 4: Petition To Declare Bankruptcy

(1) Bankruptcy will be declared on the petition of the debtor, his creditors, or the liquidator of a legal entity. A special law may grant the right to other entities to submit a petition to declare bankruptcy.

(2) If the petition was submitted by the creditor, it is necessary to prove that the petitioner has a claim against the debtor, even if it is not yet due, and to state the circumstances indicating that the debtor is bankrupt (Section 1). If the debtor stopped payments, it will be assumed that he is unable to settle the obligations that are due.

(3) If the creditor withdraws his petition to declare bankruptcy, no petition may be resubmitted for the same claim for six months from the date on which the decision on the termination of the proceedings went into force.

Section 5

A condition for declaring bankruptcy is that the debtor owns sufficient assets to cover at least the costs of the proceedings.

Section 6: Bankrupt's Estate

(1) The assets that are subject to bankruptcy make up the bankrupt's estate (hereinafter called "estate").

(2) Bankruptcy concerns assets that belong to the debtor on the day bankruptcy is filed and assets which he obtained during the bankruptcy; these assets are also to be understood as wages or any other similar income. Assets, which cannot be affected by the execution of the decision will not be included in the estate; assets that serve the commercial activity will not be excluded from the estate.

Section 7: Parties to the Bankruptcy

Participants in the bankruptcy are creditors who assert their claims (hereinafter "petitioning creditors") and the debtor.

Administrator of the Estate

Section 8

(1) The administrator of the estate (hereinafter called "administrator") will generally be chosen from the register of administrators kept by the court that has jurisdiction over the proceedings (Section 3, Paragraph 1). Only a reputable physical person, who is fully empowered to execute legal functions, has the appropriate expert qualifications, and consents to his name being entered in the register may be so entered in the register of administrators. The court may only appoint a physical person who will be impartial to the issue as an administrator. Persons entered in the register of administrators may refuse to execute this function only if there are grave reasons, which will be determined by the court, for the refusal. In an exceptional case, the court may also appoint a person, who is not entered in the register of administrators, to be an administrator if he fulfills the requirements for being entered in this register.

(2) During the execution of his office, the administrator will be obligated to proceed with professional conscientiousness and will be accountable for any injury or damage caused by a violation of the obligation set him by the law or prescribed by the court.

(3) The administrator will be entitled to receive reimbursement for his expenses and a remuneration. Any

agreements between the administrator and the bankrupt (Section 13, Paragraph 5) or creditors will be null and void.

(4) If the administrator does not properly fulfill his obligations, the court may impose a disciplinary fine on him.

(5) If serious reasons exist, the court may, on the petition of one of the parties or the administrator, or even without a petition, dismiss the administrator from his function. If the court dismisses the administrator from his office, it must appoint another administrator. The dismissal from office does not invalidate the administrator's obligations according to Paragraph 2 during the time he was executing his office. An administrator who was dismissed from his office is obligated to provide the new administrator with all pertinent information and to place all the documentation at his disposal.

Section 9

(1) If the volume of administrative activity so demands, the court may appoint a special administrator to help the administrator in a specific area of the administration. The special administrator has the rights, obligations, and accountability of an administrator within the limits of his activities.

(2) If expedient, the court may appoint a deputy for the administrator should he temporarily be unable to carry out his office due to serious reasons.

(3) The provisions on administrators apply to the appointment to office, remuneration, and dismissal from office of special administrators and deputy administrators.

Petitioning Creditors' Meeting and Bankruptcy Committee

Section 10

(1) The court will convene a meeting of petitioning creditors should it be necessary to ascertain their positions, which are mandatory for the continuation of the proceedings, and it will guide its activities; it must always convene a meeting if the administrator so requests. The petitioning creditors' meeting must always be announced in an appropriate manner, whereby the day and subject matter of the debate must be stated.

(2) A simple majority of votes, counted according to the amount of the claims is necessary for resolutions to be valid and for election to the creditors' committee; unless stipulated otherwise, only the votes of petitioning creditors who are present at the meeting or who are properly represented will be counted. In order for a meeting that is held after review proceedings to be valid, at least two creditors who represent at least one-fourth of the bankruptcy claims must be present.

(3) Only petitioning creditors whose claims have been proved may vote. The court will decide whether petitioning creditors whose claims have not yet been proved, are doubtful, or are conditional may vote.

(4) Creditors who acquired their claim through its assignment after bankruptcy had been declared, will not have the right to vote, unless the claim was assigned to them as compensation for an obligation which they assumed before bankruptcy was declared.

Section 11

(1) With the court's consent, a creditors' committee may be elected at the petitioning creditors' meeting. The members of the creditors' committee may be physical persons and/or legal entities chosen from among the petitioning creditors, and may be represented at their own expense. An equal number of substitutes must be chosen at the same time. The elected members and substitutes may refuse to accept the office or may surrender it for reasons recognized by the court. The court must ensure that the creditors' committee is always complete and, in case of need, it may expand it.

(2) The creditors' committee will supervise the activity of the administrator and is entitled or, if instructed by the court, it is obligated to review his administrative activities.

(3) The creditors' committee will be convened by the court. All members and substitutes of the creditors' committee will be invited to a session.

(4) A majority of the votes of all the members of the creditors' committee, and/or their substitutes if they are standing in for them, will be needed for resolutions by the creditors' committee to be valid. A member may not vote on his own behalf.

(5) The members of the creditors' committee and the substitutes may acquire items from the estate only through an auction, or on the basis of public business competition, or with the approval of the creditors' meeting. This also applies to acquisition through a third party.

(6) The members of the creditors' committee and the substitutes are entitled to reimbursement of necessary expenses connected with the execution of the office. With the court's consent, the administrator may provide them with appropriate remuneration before the conclusion of the bankruptcy if they executed a special task on the instructions of the court or in accordance with a resolution by the creditors' committee, or if the membership (office of substitute) were associated with an extraordinary loss of time or with extraordinary difficulties.

Section 12: Court Supervision

(1) The court is entitled to request a report and explanations from the administrator, examine his accounts, and execute necessary investigations. It can call upon the

administrator to request the opinion of the creditors' committee on specific questions or it can give him instructions itself.

(2) Legal recourse is not admissible against measures in the supervisory activity of the court in bankruptcy proceedings. This also applies to court rulings on the right to vote.

Section 13: Declaration of Bankruptcy

(1) If the court determines that the conditions for declaring bankruptcy have been fulfilled, it will make the decision on the declaration of bankruptcy through a ruling which must include a justification. Otherwise it will deny the petition to declare bankruptcy.

(2) The ruling on the declaration of bankruptcy must specify the appointment of an administrator, and the creditors must be summoned to file all their claims within 30 days from the declaration of bankruptcy, giving the amounts, the legal reason of origination, and their ensurance. The summons must include a warning that claims, which are not filed, will not be taken into account in the bankruptcy.

(3) The ruling on the declaration of bankruptcy will be delivered to the parties to the bankruptcy; furthermore, it will be delivered to the administrator, the liquidator, as well as to the appropriate tax offices. The resolution will be delivered to the debtor personally.

(4) On the same day as it is published, the complete wording or a suitable summarized form of the ruling will be posted on the court's official bulletin board as well as on the official bulletin board of the okres court, in whose obvod the debtor's enterprise or his residence are located if they are outside the domicile of the court. The court will also publish a summary of the resolution in a manner stipulated by special regulations. If the debtor is entered in a trade or other register, the court will inform the agency that keeps the register about the declaration of bankruptcy and that agency will record the declaration. At the same time, the court will notify the agencies that are authorized to keep files on immovable assets of the declaration of bankruptcy.

(5) The effects of the declaration of bankruptcy will begin on the day the resolution is posted on the court's official bulletin board. On that day the debtor will become a bankrupt, and during the period of bankruptcy the liquidator will not perform his activities.

Section 14: Effects of the Declaration of Bankruptcy

(1) The declaration of bankruptcy has the following effects:

(a) The right to dispose of the assets of the estate will be transferred to the administrator. The bankrupt's legal functions in connection with these assets will be annulled in respect to the petitioning creditors. A person who signed a contract with the bankrupt may withdraw from it, unless he knew about the declaration of bankruptcy at the time he signed it.

(b) The bankrupt may refuse to accept a gift or refuse an inheritance only with the consent of the administrator.

(c) Proceedings in connection with the claim to preferential rights (Section 28) or to exclude items from the estate may only be initiated and continued against the administrator.

(d) Other proceedings than those mentioned in 1c will be interrupted. However, these proceedings will be continued on the petition of the administrator, the bankrupt's opponent, or an inseparable party to the proceedings.[2] The bankrupt may only submit such a petition if the administrator does not do so within the deadline set by the court.

(e) Enforcement of a ruling concerning assets that are a part of the estate cannot be ordered against the bankrupt, nor can a preferential right (Section 28) be acquired to them.

(f) Preferential rights (Section 28) to assets that are a part of the estate and which the creditors acquired during the last two months prior to the submission of the petition to declare bankruptcy will become null and void; if the bankruptcy is discontinued in accordance with Section 44, Paragraph 1a, these right may again be asserted. However, if items or claims were converted into cash during the execution of the ruling within the above-mentioned deadline, the revenue from them will be included in the estate.

(g) Claims and obligations concerning the estate that were not due will become due.

(h) The bankrupt's instructions, authorizations, rights of signature, and previously not accepted petitions to sign contracts will become null and void.

(i) Crediting is not possible in those cases where a party acquired a mutual, otherwise creditable claim, after bankruptcy had been declared.

(j) The course of the privatization process will be stopped according to special regulations[3].

(k) The bankrupt's nonparticipating coownership by spouses will become null and void and his share, which the bankrupt used for his business will fall under/into the estate.

(2) If a contract on mutual performance was not fulfilled either by the bankrupt or by the other party to the contract at the time bankruptcy was declared, or if it was only partly fulfilled, each contract party may withdraw from the contract.

(3) A rental agreement signed by the bankrupt as a renter, may be canceled by the administrator within the time limit set by the law or by a contract, even if it was signed for a specific period.

Contestable Legal Acts

Section 15

(1) A creditor may demand that the court rule that the bankrupt's legal acts are legally null and void in respect to him, if they reduce the settlement of his recoverable claim. The creditor will have this right even if the claim against the debtor can already be recovered or has already been settled through his contestable act.

(2) It is possible to contest legal acts, which were executed by the debtor during the last three years with the intention of reducing the claims of his creditors if this intention must have been known to the other party, as well as legal acts through which the debtor's creditors' claimed were reduced and which were executed during the last three years between the debtor and persons close to him,[4] or which the debtor executed during the above-mentioned period to the benefit of these persons; however, this does not apply if the other party could not have found out about the debtor's intention to reduce the creditor's claims at that time despite appropriate caution.

(3) The right to contest legal acts will be asserted against the individual who benefitted from the debtor's contestable legal act.

(4) A legal act, which was successfully contested by a creditor will be null and void as long as the creditor can demand settlement of his claim from the amount which was lost from the debtor's assets through the contestable legal act, and if this is not possible, he has the right to compensation from the individual who benefitted from this act.

Section 16

(1) The creditor or the administrator is entitled to assert the right to contest legal acts.

(2) The right to contest legal acts may not only be asserted against persons who agreed on the contestable legal act with the debtor, but also against their heirs; it can be asserted against third parties only if they were aware of the circumstances that justified the contestability of legal acts against their legal predecessors.

(3) A mutual claim of the opponent against the bankrupt cannot be settled through a contestable legal act.

(4) The full amount by which the debtor's assets were reduced through a contestable legal act must be returned to the estate, and should this not be possible, monetary compensation must be provided.

Assessment of the Estate

Section 17

(1) The bankrupt is obligated to draw up and submit a statement of his assets and liabilities without delay, whereby he must name his debtors, creditors, and their addresses, he must submit his business accounts as well as all necessary documents to the administrator, and must provide him with necessary explanations. The bankrupt must sign the submitted statement of assets and liabilities and explicitly state that it is accurate and complete.

(2) If the debtor petitioned for bankruptcy, he must submit a statement of his assets and liabilities together with the petition for bankruptcy; if the petition did not come from him, the bankrupt must submit the statement as soon as the administrator requests him to submit the statement, no later than 15 days after bankruptcy was declared.

Section 18

(1) An inventory of the estate (hereinafter called "inventory") will be compiled by the administrator on the court's instructions using the statement submitted by the bankrupt. If the bankrupt does not fulfill his obligations in accordance with Section 17, Paragraph 2, the court will summon him to report so as to compile a report on the inventory of assets and to release the necessary documents to the administrator.

(2) Any person who has an item that belongs to the estate, is obligated to notify the administrator of this as soon as he hears about the declaration of bankruptcy, so that the item may be entered in the inventory and assessed; otherwise he will be liable for any damage this may cause.

(3) An integral part of the inventory is an assessment made by an expert of the court. If the creditors' meeting gives its consent, the court may accept an assessment made by the debtor or the administrator.

Section 19

(1) If there are any doubts as to whether the item should be a part of the estate, it will be entered in the inventory of the estate with a comment on the claims asserted by other persons or with a comment about other reasons that make the item's inclusion in the inventory questionable.

(2) The court will instruct the individual who asserts that the item should not be included in the inventory to bring a charge against the administrator within a time limit stipulated by the court. If the charge is not brought in time, it will be assumed that the item was rightfully included in the estate.

Section 20: Filing Claims

(1) Petitioning creditors will file their claims within the time limit stipulated in the ruling on the declaration of

bankruptcy, even if court proceedings are being held on them or if the decision is in the process of being executed. Simultaneously, they will state whether they are asserting preferential rights (Section 28), as well as other reasons for priority order in the schedule.

(2) Claims will be filed with the court in duplicate. If the claim is based on a written legal act, a document attesting to this act must also be attached. Petitioning creditors who have their residence or headquarters abroad are obligated to state the name of their representative, so that papers can be delivered in this country, when they file their claims, otherwise the court will appoint a representative to whom papers can be delivered at their expense.

(3) A duplicate of the filed claims will be delivered to the administrator, and a copy of the filed claim will be added to the court record; the filed claims will be entered in sequence in a register by the administrator for the purposes of the schedule.

(4) The administrator will examine the filed claims primarily against the bankrupt's account books and other documents and will request the bankrupt to express his opinion on the compiled list of filed claims. He will submit this list to the court.

(5) The parties will be entitled to examine the list of filed claims prepared by the administrator, as well as the documents on these claims.

(6) In respect to the statute of limitations and rescinding of rights, the filing of a claim has the same effects as the assertion of rights in a court.

Review Proceedings

Section 21

(1) The court will initiate review proceedings to review the filed claims at which the bankrupt and the administrator must be present. The review will be executed in accordance with the list compiled by the administrator.

(2) The bankrupt as well as the petitioning creditors may contest the legitimacy, amount, and order of all filed claims.

(3) The results of the review proceedings will be entered into the list of filed claims submitted by the administrator, and this amended list will become an integral part of the record of the review proceedings; the court will provide a summary to the creditors on their request.

Section 22

If it is possible, the court will also review filed claims that arrived after the filing deadline; otherwise it will arrange special review proceedings for them. Reimbursement of costs in connection with summonses to the creditors and the participation of the administrator will be charged be the court to the petitioning creditors who filed their claims late. The petitioning creditors whose filed claims were reviewed during special review proceedings cannot contest the legitimacy or order of the claims reviewed during the prior review proceedings. the provisions in Section 21, Paragraph 3 will apply analogously.

Section 23

(1) A claim is considered to be proved if it has been recognized by the administrator and if it was not contested by any of the petitioning creditors. If the debtor contests the claim, this will be noted in the register of filed claims, but is of no consequence in proving the claim.

(2) Petitioning creditors of claims, which remained doubtful as to legitimacy, amount, or order, may demand a determination as to their rights; they must bring a charge against the contesting petitioning creditors as well as the administrator, they may only refer to the legal reasons stated in the filing or during the review proceedings, and they may assert the claim only up to the amount stipulated by them. If the matter does not fall under the jurisdiction of the court, the competent administrative agency will make a determination as to the legitimacy of the claim.

(3) A person who contests an executable claim must assert this position either at the court or at the competent administrative agency, depending on the nature of the claim.

(4) The court will set a suitable deadline for contesting a claim, with a warning that if the deadline according to Section 24, Paragraph 1 is missed, such claims cannot be taken into account, and that if the deadline according to Section 24, Paragraph 2 is missed, such claims will be considered to be incontestible in the future.

(5) Petitioning creditors who have claims that are doubtful as to legitimacy, amount, or order, and who were not present during the review proceedings, will be informed by the court as to who contested a claim and for what reason.

Section 24

(1) The administrator is entitled to deny a claim filed by the petitioning creditor, the amount of the claim, or its legal justification. The court will inform the petitioning creditor, whose claim is affected, of this and will simultaneously ask him to assert his claim, its amount, or legal justification at the court which proclaimed the bankruptcy or at another competent agency within 30 days, and should point out that otherwise no account will be taken of the denied claim, the asserted amount, or the asserted legal justification.

(2) If the administrator denies a claim that is already executable, the court will ask him to assert his denial at the court that declared the bankruptcy and/or at another competent agency within 30 days and point out that otherwise the claim will be considered to have been proved.

Section 25

(1) The decisions of the court or other competent administrative agency on the legitimacy, amount, or order of the denied claims are valid against all creditors.

(2) The costs of contesting the legitimacy, the amount, or the order of denied claims are considered to be estate costs if the administrator participated in such a suit. If the administrator did not participate in the suit, the creditors contesting the matter are entitled to the reimbursement of costs from the estate only if the estate benefitted in some way from the fact that the suit was brought.

Section 26: Nonparticipating Coownership by Spouses

(1) If the declaration of bankruptcy resulted in the discontinuance of nonparticipating coownership by spouses, or if, at the time of the declaration of bankruptcy, the debtor's nonparticipating coownership by spouses, which had been discontinued earlier, had not yet been settled, a settlement must be executed.

(2) The administrator is authorized to execute the settlement of the discontinuance of nonparticipating coownership by spouses, which was caused by the bankruptcy, in the name of the bankrupt, including submitting the petition for the court settlement of this nonparticipating coownership by spouses. The administrator is authorized to conclude an agreement on the settlement of the nonparticipating coownership by spouses only in the form of a settlement approved by the court.

(3) If the nonparticipating coownership by spouses was discontinued before bankruptcy was declared:

a) Any agreements on the settlement of nonparticipating coownership by spouses, which were concluded during the six months prior to the declaration of bankruptcy, will be null and void.

b) If proceedings on the settlement of nonparticipating coownership by spouses were initiated but were not yet legally concluded, the administrator will take the place of the bankrupt in the proceedings, starting on the day on which bankruptcy is declared.

c) If proceedings on the settlement of nonparticipating coownership by spouses were not yet initiated, the administrator is obligated to submit a petition for this settlement in the place of the bankrupt without delay.

d) Approval by the court is needed for the consent on the settlement of nonparticipating coownership by spouses to be valid.

Conversion Into Cash

Section 27

(1) The estate may be converted into cash either through the sale of items in a manner regulated in the provisions on execution of the decision by the court or through nonauction sale.

(2) The administrator will execute a nonauction sale with the consent of the court and under the conditions stipulated by it after a hearing with the bankrupt, and/or the creditor's committee. In a nonauction sale, items may be sold below the assessed price or the price set by price regulations. Similarly, claims that are either doubtful or difficult to recover for the bankrupt can be effectively transferred.

(3) The conversion of items into cash in accordance with the provisions on the execution of the decision will be done by the court on the petition of the administrator who will have the status of an authorized person.

(4) Uncollectible claims and items that could not be sold may be excluded from the estate by the administrator with the court's consent.

Section 28

(1) Creditors of claims that were secured through the bonding or withholding right, and/or the limitation on the assignment of immovable assets (hereinafter called "preferential creditors"), are entitled to the satisfaction of their claim from the revenue from the sale of items to which the bonding or withholding right is attached, during the conversion into cash.

(2) The administrator will distribute the revenue from the sale of items in the amount of the secured claims to the creditors with the court's consent. If a secured claim was not fully satisfied in this way, its unsatisfied portion will be considered to be a claim filed in accordance with Section 20.

Section 29

(1) The administrator will provide the court with reports on the conversion of assets from the estate into cash. He will submit a final report, together with an accounting of his remuneration and expenses, to the court after the assets from the estate have been converted into cash. The special administrators and the deputies of the administrator will also draw up a statement on their remuneration and expenses, as will those individuals who were released from their office by the court during the course of the proceedings.

(2) The court will review the final report on the conversion of the estate into cash and on the statements of remuneration and expenses; after a hearing with the administrator, it will remove all errors and ambiguities that it discovered, and it will inform the bankrupt and the petitioning creditors of the final report and statement of accounts. Simultaneously, it will point out that they may appeal them within 15 days from the day on which the final report and statement of accounts were posted on the court's official bulletin board.

(3) The court will discuss the final report and statement of accounts at proceedings to which it will summon the administrator, the bankrupt, and the petitioning creditors who appealed, and/or the creditors' committee, and

it will make a decision through a ruling which it will deliver to them and post on the court's official bulletin board.

Schedule

Section 30

(1) After the ruling on the approval of the final report and statement of accounts on remuneration and expenses has gone into force, the court will publish a ruling on the schedule.

(2) The ruling on the schedule will be personally delivered to the parties with the exception of the petitioning creditors whose claims have already been fully settled.

Section 31

(1) Claims to exclude items from the estate (Section 19, Paragraph 2), claims from the estate (Section 31, Paragraph 2), claims for preferential treatment (Section 28), and workers' claims (Section 31, Paragraph 3) may be settled at any time during the course of the bankruptcy proceedings. Other claims may only be settled in accordance with the valid schedule ruling.

(2) Claims from the estate which originated after bankruptcy was declared, are claims for the reimbursement of costs connected with the maintenance and administration of the estate, including the right of the administrator to the payment of remuneration and reimbursement of costs, taxes, and payments, if they became due during the course of the bankruptcy proceedings and, furthermore, the claims of creditors issuing from agreements concluded by the administrator, as well as claims for the repayment of performance from a contract which was canceled in accordance with Section 14, Paragraph 1a.

(3) Workers' claims as defined by the provisions in Paragraph 1 are the payment of remuneration to the bankrupt's employees and their rights issuing from employees' security.

Section 32

(1) The claims from the estate (Section 31, Paragraph 2) and workers' claims (Section 31, Paragraph 3) will be settled first in the schedule. If the revenue from the conversion into cash is insufficient to fully cover all these claims, the administrator's costs will be reimbursed first, and the other claims will be settled proportionally.

(2) After claims in accordance with Paragraph 1 have been fully satisfied, other claims will be settled in the following order:

a) The bankrupt's employees' claims from the employment relationship to which they were entitled during the last three years prior to the declaration of bankruptcy, and claims for support payments stipulated by the law (primary claims).

b) Taxes, payments, duties, and contributions to social security (insurance), as long as they originated no more than three years prior to the declaration of bankruptcy or during the course of the bankruptcy unless they are settled from items encumbered for them by the bonding right (secondary claims).

c) Other claims (tertiary claims).

(3) If it is not possible to fully settle claims in the order mentioned in Paragraph 2, they will be settled proportionally.

Section 33

(1) The following will be excluded from the settlement of claims:

a) Interest on creditors' claims that commenced before the declaration of bankruptcy if it accrued since the declaration of bankruptcy.

b) The expenses of the parties to the proceedings, which occurred as a result of their participation in the bankruptcy proceedings.

c) Creditors' claims from gift contracts.

d) Extracontractual sanctions, which affect the assets of the bankrupt.

(2) Sums assigned to

a) Enforceable claims that were denied by the administrator and he asserted the denial in time;

b) Conditional claims recognized by the administrator;

c) Claims that were asserted in time by the creditors but which the administrator denied, will be placed in trust with the court and, once the conditions have been met, they will be scheduled in a new schedule ruling.

Forced Settlement

Section 34

(1) If no schedule ruling has yet been published in the bankruptcy, the bankrupt may petition that the bankruptcy be concluded through a forced settlement; he may only make this petition after the review proceedings.

(2) The petition must include the settlement offered by the bankrupt. If the petitioner names persons willing to guarantee the execution of the forced settlement, these persons must also sign the petition, and their signature must be officially notarized.

Section 35

A forced settlement will not be permitted if circumstances make it questionable whether the petitioner's intentions are honest. Such circumstances include, above all, the bankrupt's inadequate cooperation in the assessment of his assets, irregularities in his business' bookkeeping, reduction of the claims of his creditors during the period prior to the declaration of bankruptcy,

prior bankruptcies or settlements, and a disproportionately lower satisfaction of the bankruptcy creditors' claims in the petition for forced settlement compared to the possibilities of settlement according to the provisions on executing the bankruptcy.

Section 36

(1) The court will deny the petition for forced settlement,

a) If its recognition were to affect the right to exclude items from the estate, the right to preferential treatment (Section 28), or to provide support payments stipulated by the law; or

b) If claims stipulated in Section 31, Paragraphs 2 and 3 and Section 32, Paragraph 2a and b would not be satisfied or secured; or

c) If the nonparticipating coownership by spouses, which was discontinued through the declaration of bankruptcy or before the declaration of bankruptcy, has not been not settled.

(2) Should the court not decide that the forced settlement is inadmissable, it will call for proceedings on the forced settlement in a ruling and will waive the conversion of the estate into cash.

Section 37

(1) The court will summon the bankrupt, the persons who guaranteed the execution of the forced settlement, the administrator, and all petitioning creditors who have not yet been satisfied, as well as the bankruptcy committee if one was set up, to the proceedings on the forced settlement. The court will deliver the summons personally to these persons and will attach the petition for the forced settlement. The announcement of the initiated proceedings will be posted on the court's official bulletin board.

(2) The bankrupt is obligated to be present in person at the proceedings. If he is not present without an appropriate excuse, it will be assumed that he has withdrawn the petition for forced settlement.

(3) During the proceedings, the administrator will provide all necessary information on the status of the bankrupt's assets, on the management of his business, on the reasons for bankruptcy, and on the results that the petitioning creditors could expect if the bankruptcy were continued to its conclusion. The court will review the report and may request an expert opinion on it.

(4) During the proceedings, the court will ascertain which petitioning creditors would be willing to consent to the petition for forced settlement.

Section 38

(1) A prerequisite for the court's recognition of the forced settlement is the consent of the majority of the petitioning creditors who are present or represented at the proceedings, who filed their claims in time, and whose votes represent more than three-quarters of all filed claims.

(2) The following do not have the right to vote:

a) Petitioning creditors whose rights will not be affected by the forced settlement (primarily preferential creditors and estate creditors).

b) Petitioning creditors who are persons close[4] to the bankrupt, unless they acquired the claim from a person who is not close to the bankrupt more than six months prior to the declaration of bankruptcy; however, their votes will be counted if they vote against the petition for forced settlement.

c) The legal successors to persons close to[4] the bankrupt if they acquired the claim from a person close to the bankrupt within the six months prior to the declaration of bankruptcy; however, their votes will be counted if they vote against the petition for forced settlement.

d) Petitioning creditors whose claim, which was filed in the bankruptcy, has not yet been proved, is doubtful or conditional, unless the court recognizes their right to vote after hearing the other parties to the proceedings.

(3) Only those entitled petitioning creditors who are present in person or are represented during the proceedings may vote. Petitioning creditors' votes, which are executed in any other way will not be valid.

(4) When voting, only the unsettled claims will be counted in the amount to which they have not been satisfied.

Section 39

(1) The court will make the decision on the recognition of a forced settlement through a ruling which must include the wording of the forced settlement.

(2) The ruling and recognition of the forced settlement will be announced publicly inasfar as it is necessary; furthermore, the ruling will be posted on the court's official bulletin board, and will be provided with the date on which it is posted. Furthermore, on the day on which the ruling is posted on the court's bulletin board, it will be delivered personally to the bankrupt, the administrator, all petitioning creditors, and all persons who assumed liability for the execution of the forced settlement as guarantors or codebtors.

(3) Parties who did not explicitly agree to the settlement, and the bankrupt's guarantors and codebtors may appeal the ruling on the recognition of the forced settlement.

Section 40

(1) The court will deny the petition for recognition of the forced settlement, even if the petitioning creditors consented to it, if it is discovered that:

a) Reasons are given for which a petition for forced settlement is not admissible (Section 35).

b) Special advantages were provided to one petitioning creditor over other petitioning creditors who have the same status.

c) The advantages provided to the bankrupt are not in proportion to his economic environment.

d) The forced settlement conflicts with the joint aims of the petitioning creditors.

e) The petitioning creditors of claims stipulated in Section 32, Paragraph 2c should receive less than one-third of their claims within no more than one year.

f) The forced settlement would be based on the bankrupt's dishonest or frivolous business practices.

(2) The ruling on the denial of the petition for a forced settlement in accordance with Paragraph 1 will be delivered to the bankrupt, the administrator, all petitioning creditors and all the persons who assumed liability for the execution of the forced settlement as guarantors or codebtors. The ruling will be delivered personally to the bankrupt and the creditors who did not object to the acceptance of the forced settlement; only these persons may appeal the ruling.

Section 41

(1) If the ruling on the recognition of the forced settlement has gone into force, the court, through a ruling, will:

a) Return to the bankrupt the right to dispose of the assets that were a part of the estate (Section 14, Paragraph 1a).

b) Announce that the bankrupt will assume the status of administrator in all proceedings that the latter had conducted on the part of the bankrupt (Section 14, Paragraph 1c), and that the bankrupt will take his place as a party to them.

c) Return all other rights to the bankrupt which had been restricted by the declaration of bankruptcy.

(2) The recognition of the forced settlement will not affect the rights of the creditors against the codebtors and the codebtors' guarantors unless they explicitly agree that these rights be limited.

Section 42

(1) If the forced settlement, recognized by the court, was executed fully and in time, the bankrupt will be released from the obligation to reimburse the petitioning creditors for losses they suffered as a result of the settlement; he will also be released from liability against the guarantors and other persons who may have recourse against him. Any agreements that conflict with this will be null and void. Interest from bankruptcy claims for the period following the declaration of bankruptcy and expenses that arose for individual petitioning creditors as a result of participation in the bankruptcy cannot be granted.

(2) Petitioning creditors whose claims were not taken into account may demand that the bankrupt pay them in full, even after the bankruptcy has been discharged, unless they knew, or should have known, about the declaration of bankruptcy.

(3) If a new bankruptcy is filed against the bankrupt's assets before the bankrupt has fully executed the forced settlement, the petitioning creditors will not be obligated to return what they received in good faith on the basis of the forced settlement. In the new bankruptcy, their claims will be assumed to have been settled only in the amount that was in fact paid them in accordance with the forced settlement.

Section 43

(1) If the forced settlement, recognized by the court, was not executed, despite the fact that the bankrupt was reminded by the petitioning creditor in a registered letter that included the provision of an additional grace period of no less than eight days, all the reductions and other advantages provided by the forced settlement will be forfeited; this will not affect the rights of petitioning creditors, which were acquired against the bankrupt through the settlement.

(2) If the forced settlement was attained through a fraudulent act or the unlawful provision of special advantages to individual petitioning creditors, each and every petitioning creditor may, within three years from recognition of the forced settlement, assert his right to receive full satisfaction for all his claims, or to have another advantage declared null and void; the court that declared bankruptcy will be the competent court to review the claim. However, this right will not pertain to petitioning creditors who participated in fraudulent acts or unlawful agreements, or who could have given reasons for the annulment during the proceedings on the recognition of the forced settlement.

(3) If the bankrupt is convicted for a deliberate criminal act within three years subsequent to the recognition of the forced settlement through which he attained the forced settlement or through which he reduced the satisfaction of his petitioning creditors, the forced settlement will become null and void and the creditors may demand the full satisfaction of their claims from the bankrupt; This will not affect the ability to execute decisions made during the bankruptcy proceedings. On the condition that the bankrupt's assets are sufficient to cover at least the costs of the bankruptcy proceedings, they may petition for the reinitiation of the bankruptcy proceedings.

Discharge of Bankruptcy

Section 44

(1) The court may discharge a bankruptcy in which there was no recognition of a forced settlement through a ruling:

a) If it determines that there are no reasons for bankruptcy.

b) After the schedule ruling has been executed.

c) On the petition of the bankrupt, if all petitioning creditors give their consent on a document to which they attached their officially notarized signatures, and if the administrator gives his consent.

(2) If the bankrupt died during the course of the bankruptcy, the creditors' claims will be settled within the framework of the proceedings on inheritance in a manner consistent with this law.

(3) If the forced settlement was recognized, the court will discharge the bankruptcy, if the bankrupt demonstrates that he has provided sufficient security to fulfill the right to exclude items from the estate, the rights of preferential creditors to preferential treatment (Section 28), as well as rights in accordance with Section 31, Paragraph 3. If the bankruptcy was not discharged in accordance with Paragraph 1, the court will not discharge the bankruptcy until the forced settlement has been executed.

(4) In the ruling on the discharge of bankruptcy, the court will release the administrator from his office.

(5) The same applies to the delivery and publication os the ruling on the discharge of bankruptcy as to the delivery and publication of the ruling on the declaration of bankruptcy.

Section 45

(1) The effects of the declaration of bankruptcy stipulated in Section 14 will become null and void through the discharge of bankruptcy.

(2) After the schedule ruling has gone into force, the execution of the decision may be done at the bankrupt's expense on the basis of the register of filed claims.

Part Three

Petition for Settlement

Section 46

(1) A debtor who fulfills the conditions for declaring bankruptcy may submit a petition for settlement to the court competent for the bankruptcy (Section 3, Paragraph 1). The court will review the petition only if bankruptcy has not yet been declared.

(2) The debtor will include the settlement he wishes to offer in the petition. Persons who are willing to assume liability for the execution of the settlement as codebtors or as guarantors must cosign the petition. If nonparticipating coownership by spouses has not been settled, the other, nonparticipating, partner must also sign the petition as proof that he/she consents to the use of all the assets from the nonsettled nonparticipating coownership for the purpose of the settlement. All signatures must be officially notarized.

(3) If the petitioner owns an enterprise, he must state the number of the employees in the enterprise as well as the measures he will introduce to reorganize and to further finance the enterprise in his petition.

Section 47

(1) A full inventory of the his assets and a summary of the status of the assets must be attached to the petition by the debtor when he submits the petition. He must list the individual parts of the movable and immovable assets, and the place where they are located; in respect to claims, he must state their amount, the reason for their origination, and the possibility to satisfy them. Next to the assets, he must list his liabilities together with the addresses of the creditors, and he must note which of them have a close relationship to the debtor.[4] If the debtor's nonparticipating coownership by spouses has not been settled, the debtor must state which items on the list are his exclusive property and which belong to the nonparticipating coownership by spouses. The final summary must include the amount to which he is overextended.

(2) The inventory mentioned in paragraph 1 must be signed by the debtor and submitted with a sufficient number of copies, so that it can be delivered to all the creditors and the settlement administrator (Section 50, Paragraph 3a).

(3) Unless the debtor removes fundamental errors in the petition within the time limit stipulated by the court, the court will stop the proceedings.

Section 48: The Parties to the Settlement

Parties to the settlement are the debtor, the debtor's spouse, the debtor's codebtors and guarantors if they cosigned the petition to initiate a settlement, and the creditors who filed their claims in time (Section 50, Paragraph 3c) and have not been fully satisfied.

Section 49: The Consequences of Submitting a Petition

(1) From the day the petition is submitted through to the decision on permitting a settlement (Section 50, Paragraph 3) the debtor may not alienate or encumber immovable assets, establish rights for preferential treatment (Section 28) from his assets, undertake to act as guarantor or codebtor, or give excessive gifts from his assets or execute any functions that could harm the creditors.

(2) Acts that conflict with the provisions in Paragraph 1 are null and void in respect to the creditors; each and every creditor may assert this nonvalidity at the court no

later than the day on which the ruling on stopping or terminating the settlement has been posted on the court's official bulletin board.

Decision on the Petition

Section 50

(1) The court will deny the petition through a ruling if:

a) The debtor was convicted of a criminal fraudulent act or of harming a creditor during the last five years prior to its submission, or if the circumstances indicate that he does not have honest intentions in submitting the petition; or

b) Bankruptcy was declared on the debtor's assets during the five years preceding the submission of the petition, or the debtor submitted a petition for permission for a settlement; or

c) The petition is inconsistent with the provisions in Section 60, Paragraph 1b; or

d) A payment of at least 45 percent of the claims with implementation within two years from the submission of the petition was not offered to creditors who do not have a priority right for their claims; or

e) The petition does not include all the facts stipulated in Section 46, Paragraph 3, if it should do so.

(2) The court will deliver the ruling in accordance with Paragraph 1 only to the petitioner.

(3) The court will make a decision on the permission for a settlement through a ruling, in which it will simultaneously:

a) Appoint an administrator from the persons entered in a special section of the register (Section 8, Paragraph 1), to whose rights, obligations, and accountability the provisions on the estate administrator will apply as appropriate.

b) Schedule settlement proceedings for a date no later than six weeks from the day on which the ruling is posted on the court's official bulletin board.

c) Summon the creditors to file their claims in writing or verbally in the record within four weeks from the day on which the ruling is posted on the court's official bulletin board.

d) Decide on the measures that are needed to secure the debtor's assets.

(4) The provisions in Section 8 apply as appropriate to the rights and obligations of the settlement administrator.

Section 51

(1) The ruling on the permission for a settlement will be delivered to the known creditors and the administrator, as well as to the debtor, the persons stipulated in Section 46, Paragraph 2, and the tax offices. Simultaneously, a copy of the inventory of the debtor's assets and summary of the status of the debtor's assets will be delivered to the creditors. The ruling will be posted on the same day as it is published in its full wording or in a suitable summarized form on the court's official bulletin board as well as on the official bulletin board of the okres court in whose obvod the debtor has his headquarters or residence, if they are outside the obvod of the court that permitted the settlement. The court will publish a summary of the ruling analogously to the stipulations in Section 13, Paragraph 4.

(2) The court will notify the agencies authorized to keep commercial or other records and the files on immovable assets of the permission for a settlement. If the execution of the decision against the debtor is against his immovable assets, it will file a duplicate of the ruling in the appropriate documents.

(3) The creditors and the debtor may petition that a different administrator be appointed within 15 days of the delivery of the ruling. If the court recognized the reasons for this petition, it will dismiss the administrator from his office and will appoint a different one. The same applies if the court acknowledges the administrator's refusal of the office and/or if there are reasons to remove him.

(4) Creditors, who do not have priority claims may appeal a ruling that permitted the settlement. Only the debtor may appeal a ruling that denied the petition for settlement.

Section 52: Effects of the Permission for a Settlement

(1) The effects of the permission for a settlement will start on the day the ruling is posted on the court's official bulletin board.

(2) The permission for a settlement will have the following effects:

a) The debtor may not independently perform legal acts that would curtail the interests of the creditors; the settlement administrator will be authorized to specify the debtor's legal acts which necessitate his consent, and may reserve the right to pay and accept payments or fulfill other obligations on the part of the debtor.

b) The court may instruct the debtor not to perform specific legal acts or to perform them only with the prior consent of the settlement administrator; it may also make decisions on other measures necessary for to secure the debtor's assets.

c) Any legal acts by the debtor, which are in conflict with the provisions in 2a and 2b are null and void in respect to the creditors.

d) The debtor may not petition for a declaration of bankruptcy during the settlement.

e) The creditors cannot petition for bankruptcy against the debtor's assets, nor can they execute the decision on claims that do not have priority (Section 54).

f) In respect to claims included in the settlement, the effects will start with the debtor's acknowledgement of his obligations.

(3) The claims of creditors who were summoned by the court to file their claims, or who knew about the settlement proceedings, will become null and void unless they are filed within the deadline stipulated by the court.

Section 53: Rights, Debts, and Claims of the Creditors During the Settlement

(1) Everyone who files his claim on the basis of a summons from the court (Section 50, Paragraph 3c) will be considered to be a creditor in the settlement. The manner, order, and measure of satisfaction of the claims will be determined only in the recognized settlement (Section 60) unless satisfaction can be attained by means of other provisions outside the settlement.

(2) Interest, including that from late charges, will be excluded from the settlement from the day on which permission for the settlement goes into force, and the right to receive them will be annulled on the day on which the ruling on the recognition of the settlement goes into force.

(3) Neither liabilities from contracts stipulated in Section 14, Paragraph 2 nor portions of these liabilities will be included in the settlement.

Section 54: Priority Debts

(1) The following have the right to priority satisfaction in the settlement:

a) Debts in connection with the costs of the proceedings.

b) Debts from the debtor's or the administrator's legal acts (Section 52, Paragraphs 2a and b) and the right of the administrator to remuneration and expenses.

c) Taxes, payments, duties, and contributions to social security (insurance) as long as they started no longer than three years prior to the permission for settlement, unless they will be satisfied from items encumbered for them through the bonding right.

d) All the debtor's liabilities issuing from the legal employment relationship, as long as they do not exceed the claims for the three years prior to the permission for settlement.

(2) The bearers of debts in accordance with Paragraph 1 are priority creditors.

Section 55: Nonparticipating Coownership by Spouses

(1) Through his signature on the petition for settlement, the nonparticipating coowner assumes the obligation to permit all assets in nonparticipating coownership by spouses to be used for the purposes of the settlement; this obligation remains valid even if the nonparticipating coownership by spouses was discontinued or dissolved after the petition for settlement was submitted. This obligation becomes null and void through the death of a nonparticipating coowner who attached his signature.

(2) Nonparticipating coownership by spouses, which was settled through an agreement between the two coowners during the last six months prior to the submission of the proposal will also be considered not to have been settled.

(3) Court proceedings on the settlement of nonparticipating coownership by spouses, which did not end before the petition for settlement was submitted, may only be terminated through a court decision. The deadline according to special regulations[5] will not be in effect from the time the petition for settlement is submitted through to the termination or discontinuance of the proceedings.

Section 56: Filing of Claims

(1) The creditors must file their claims within the deadline stipulated in Section 50, Paragraph 3c.

(2) The amount and legal reason of the origination of the claim must be stated in the filing papers, and/or the name of the court where the claim was already recovered.

(3) Even priority creditors (Section 54, Paragraph 2) must file their claims that are to be settled.

Section 57: Register of Filed Claims

(1) The administrator will enter the filed claims in a register in the order in which they arrive at the court, but the priority claims must be separated from the others. He will review the filed claims with the help of the business' account books and other documents. The court will request the debtor to give his opinion, as to whether he will recognize the individual claims. If the debtor denies a claim, he must give his reasons. If the debtor does not give his opinion within the deadline set by the administrator, it will be assumed that he has recognized the claim; recognition of the claim will remain valid even if bankruptcy is declared against the debtor's assets within three years.

(2) The administrator will summon the creditors to examine the register of filed claims and the debtor's opinion within a deadline set by him. Simultaneously he must inform them that they can give their opinion on the register and on the debtor's opinion and that their opinions will be attached to the register, and/or it will be noted that they did not give their opinion.

Section 58: Settlement Proceedings

(1) Creditors who filed their claims on time are entitled to submit petitions and statements as well as to vote on the settlement even prior to the settlement proceedings.

Late filings will be taken into consideration as long as they can be reviewed without undue delay.

(2) During the settlement proceedings (Section 50, Paragraph 3b) the court will ascertain which creditors are willing to consent to the petition for settlement. The provisions in Section 38 apply analogously to the right to vote with the following differences:

a) The debtor must be present in person at the settlement proceedings. Once the proceedings have been initiated, he may not withdraw his petition for settlement, nor may he change it to the detriment of the creditors. If he is not present without an excuse, or if his excuse is not recognized as extenuating by the court, the court will stop the proceedings.

b) The debtor's creditors are not obligated to appear in person. Only creditors who are present in person or are represented may vote on the acceptance of the settlement.

c) Only those creditors who would suffer property loss through the settlement have the right to vote.

d) Preferential creditors (Section 28) will only vote on that portion of the claim that will not be recovered through the right to preferential treatment (Section 28).

e) Creditors with priority rights and creditors whose right to vote was denied by the administrator, the debtor, or another creditor, will not have the right to vote.

f) Creditors who acquired their claim through assignment from the debtor during the period when the debtor was already bankrupt will not have the right to vote.

Section 59: Denial of a Claim

The denial of the legitimacy or amount of one of the filed claims by the debtor, administrator, or one of the creditors entitled to vote has the following consequences:

a) If the debtor denies the claim, the court must, after hearing the parties and on the petition of the creditors, instruct that the sum pertaining to the denied claim be secured by being put in trust with the court; simultaneously, it must set a deadline for the creditor whose claim was denied to assert it and must warn him that it will release the secured sum to the benefit of the debtor if the deadline is not observed. Denial of the claim by the debtor has the consequence that the decision on the basis of the settlement recognized by the court (Section 63, Paragraph 4) cannot be executed; however, if a claim that can already be executed is denied, it is up to the debtor to assert his right according to the general provisions of the Civil Court Code[6].

b) If the administrator denies the claim, the decision on the basis of the settlement recognized by the court (Section 63, Paragraph 4) cannot be executed.

c) Denial of the claim by another creditor has no effect on the settlement.

Recognition of the Settlement

Section 60

(1) The court will recognize the settlement through a ruling if the following conditions are met:

a) The rights of persons entitled to request the exclusion of items, the rights of preferential creditors (Section 28), and the rights to the provision of support payments will not be affected by the settlement.

b) Priority claims will be paid, or their payment will be secured.

c) The creditors of other claims will be satisfied to an equal degree unless they agree that some may be satisfied to a greater degree.

d) No special advantage will be provided to any of the creditors with equal status, unless it is an advantage provided in accordance with 1c.

e) The rights of creditors against the debtor's codebtors and guarantors will not be affected, with the exception of cases when these creditors explicitly consent to it.

(2) The ruling recognizing the settlement will become executable when it goes into force. After the court has recognized the settlement, the provisions on the recognition of a forced settlement (Sections 39 and 40) will apply analogously. If the debtor should die before the decision on the recognition of the settlement, the court may recognize the settlement only if the debtor's rightful heirs declare that they agree with the proposed settlement no later than during the settlement proceedings; otherwise the court will stop the proceedings.

Section 61

(1) The court will deny recognition of the settlement, even if the creditors have expressed their consent:

a) If there are no reasons to permit the settlement (Section 50, Paragraph 1).

b) If any of the creditors were provided with special advantages (Section 60, Paragraph 1d).

c) If the costs for the proceedings were not paid or their reimbursement was not secured within 30 days from the acceptance of the settlement, despite the fact that the debtor was instructed by the court to do so without delay following the acceptance of the settlement.

(2) The court may refuse to recognize the settlement

a) If the advantages for the debtor, issuing from the accepted settlement, are in serious conflict with his assessed economic circumstances.

b) If it is impossible to obtain a sufficient overview of the debtor's economic circumstances, primarily because his bookkeeping was not executed properly.

c) If the accepted settlement is in serious conflict with the mutual interests of the creditors.

Section 62

(1) Only those creditors who did not expressly give their consent to the settlement, as well as the debtor's codebtors and guarantors may appeal a ruling recognizing the creditor's settlement.

(2) The debtor and the creditors who gave their consent to the acceptance of the settlement may appeal a ruling denying recognition of the settlement.

Section 63: Effects of a Recognized Settlement

(1) Once the ruling on recognition of the settlement has gone into force and the debtor has fulfilled his obligations in accordance with it fully and in time, his obligation in respect to the creditors to fulfill the portion of the obligation, which he was not obligated to fulfill according to the terms of the settlement, becomes null and void, even if they voted against the acceptance of the settlement or did not participate in the voting.

(2) The rights of creditors against the debtor's codebtors and guarantors will not be affected by the recognition of the settlement, unless they expressly gave up these rights.

(3) If bankruptcy was declared on the debtor's assets before the debtor's obligations in accordance with the settlement were fully executed, the claims of the petitioning creditors will be considered to have been fulfilled in the amount that was in fact paid them in accordance with the settlement.

(4) A decision can be executed on the basis of a legally valid ruling on the recognition of the settlement for a claim filed in the register of filed claims, with the exception of those cases where claims were denied by the debtor or the administrator. Through the execution of the decision, the costs of the proceedings which were stipulated in the settlement may be exacted from the debtor, unless they were paid or secured within the deadline stipulated for them (Section 61, Paragraph 1c).

Section 64: Consequences of Noncompliance

If the settlement recognized by the court was not complied with, despite the fact that the debtor was reminded by the creditor in a registered letter and was provided with an additional grace period of no less than eight days to comply, all reductions and other advantages provided to the debtor in the settlement will be forfeited, and this applies to all creditors; the rights provided by the settlement in respect to other persons will remain intact.

Section 65: The Consequences of Fraudulent Acts

(1) The creditors are entitled to demand full satisfaction of their claims, if the settlement was attained through fraudulent acts or the provision of special advantages to individual creditors. A creditor may assert his right to receive full satisfaction for all his claims or to have a special advantage declared null and void in court within a period of three years from the date on which the ruling on recognition of the settlement came into force; he will not lose the rights he acquired in the settlement through this. However, creditors will not attain this right if they participated in fraudulent acts or unlawful agreements, or who could have given reasons for the annulment during the proceedings on the recognition of the settlement.

(2) If, within three years from the recognition of the settlement, the debtor is legally convicted for a deliberate criminal act, through which he attained the settlement, or through which he reduced the claims of his creditor, the settlement will become null and void and the creditors may demand satisfaction for their claims without further settlement. The nonvalidity of the settlement will not affect the rights they acquired through the settlement.

Section 66: Discontinuance and Termination of a Settlement

(1) The court will discontinue a settlement through a ruling:

a) If the debtor withdraws his petition for settlement prior to the settlement proceedings, or if the petition was not accepted by the creditors within 90 days from the permission for settlement; the court may extend this deadline as appropriate, if it is a matter of an economically important enterprise and if an extension of the deadline would be in the public interest.

b) If the ruling denying recognition of the settlement went into force.

c) If all the debtor's heirs do not state that they agree with the offered settlement (Section 60, Paragraph 2) no later than after the settlement proceedings.

(2) The ruling on discontinuing a settlement will be posted on the court's official bulletin board and in any other appropriate manner. Simultaneously, the court will inform agencies authorized to keep the commercial register and the files on immovable assets that the settlement was discontinued.

(3) The court will announce that a settlement has been terminated through a ruling as soon as the ruling on the recognition of the settlement has gone into force. This ruling will not be delivered to the parties and there is no legal recourse against it; the provisions in Paragraph 2 will apply to the publication of this ruling, the execution of all relevant reports and all notifications about it.

(4) After the proceedings have been discontinued or terminated, the court will decide through a ruling on the remuneration and expenses of the administrator, and it will deliver the ruling to the debtor and the administrator. If bankruptcy is declared within 15 days after the proceedings have been discontinued, the settlement costs will become part of the bankruptcy costs.

Part Four: Joint, Temporary, and Final Provisions

Section 67

(1) Up to one year from the day on which this law goes into force, the court may only declare bankruptcy on the grounds that the debtor is overextended. A prerequisite for declaring bankruptcy on the basis of a petition submitted by a creditor who is a state enterprise or commercial enterprise with exclusive property participation by the state during this period is the consent of the creditor's founder after consultation with the debtor's founder.

(2) If the debtor's founder does not express an opinion on the petition to initiate proceedings within 30 days, it will be assumed that he agrees with the petition.

Section 68

(1) Items that should be released to entitled persons in accordance with the law regulating mitigation of some property torts,[7] will be included in the estate only if the claims were not asserted within the deadlines stipulated by the law or if they were denied.

(2) The bearers of claims for reimbursement in accordance with the regulations stated in Paragraph 1 are priority creditors (Section 32, para.2 a and Section 54, Paragraph 1a).

Section 69

(1) Unless an international agreement, which is binding on the Czech and Slovak Federal government and which was published in the Collection of Laws stipulates otherwise, a bankruptcy declared by the court also applies to the bankrupt's movable assets abroad.

(2) Unless bankruptcy was declared by a Czechoslovak court against a bankrupt's assets that became the subject of a bankruptcy abroad, the bankrupt's movable assets, which are in the territory of the Czech and Slovak Federal Republic, will be released to the foreign court on its request, as long as it is a state that maintains reciprocity. However, a bankrupt's assets may only be released abroad after the right to exclude items from the estate and the right to preferential treatment (Section 28), which were acquired before the request by the foreign court or other competent agency arrived, have been satisfied.

Section 70

Proceedings on the liquidation of assets that were initiated in accordance with Sections 352 to 354 of the Civil Court Code[1] will be concluded by the courts in accordance with former regulations.

Section 71

Through a decree, the Ministry of Justice of the Czech Republic and the Ministry of Justice of the Slovak Republic will regulate:

a) Details on the register of administrators, special administrators, settlement administrators, and deputies of the administrators and on their remuneration in bankruptcy and settlement proceedings.

b) The order of proceedings for bankruptcy and settlement proceedings.

Section 72

The provisions in Sections 352 to 354 of Law No. 99/1963 of the Civil Court Code will be annulled.

Section 73: Validity

This law will come into force on 1 October 1991.

[Signed President Vaclav] Havel
[Chairman of the Federal Assembly Alexander] Dubcek
[Prime Minister Marian] Calfa

Footnotes

1. Law No. 99/1963, Civil Court Code, in the version of subsequent regulations.

2. Section 91, Paragraph 2 of Law No. 99/1963 in the version of subsequent regulations.

3. Law No. 92/1991 on the Conditions for Transferring State Assets to Other Persons. CNR [Czech National Council] Law No. 171/1991 on the Jurisdiction of Agencies of the Czech Republic in Matters of Transferring State Assets to Other Persons and on the National Asset Fund of the Czech Republic. SNR [Slovak National Council] Law No. 253/1991 on the Jurisdiction of Agencies of the Slovak Republic in Matters of Transferring State Assets to Other Persons and on the National Asset Fund of the Slovak Republic.

4. Section 116 of the Civil Code No. 40/1964 in the version of subsequent regulations.

5. Section 149, Paragraph 4 of the Civil Code, in the version of subsequent regulations.

6. Section 80c and Section 268 of the Civil Court Code.

7. For example, Law No. 403/1990 on the Mitigation of Consequences of some Property Torts in the version of Law No. 458/1990 and No. 137/1991, Law No. 87/1991 on Extrajuridical Rehabilitation, Law No. 229/1991 on the Regulation of Ownership Relations to Land and Other Agricultural Property.

Decree on Investment Coupons

91CH0922A Prague HOSPODARSKE NOVINY in Czech 10 Sep 91 p 8

["Text" of government decree of 5 Sepember on the issue and use of investment coupons]

[Text]

Czech and Slovak Federal Republic Government Decree of 5 September 1991 on the Issue and Use of Investment Coupons

After reaching agreement with the government of the Czech Republic and the government of the Slovak Republic, the Government of the Czech and Slovak Federal Republic decrees the following in accordance with Article 46, Section 2, of Law No. 92/1991 on the Conditions of Transferring State-Owned Assets to Other Persons.

Part 1: Investment Coupons

Section 1

(1) The Federal Finance Ministry will issue coupon books, which will contain registration cards I and II and coupons. Each page in the coupon book will be provided with a registration number.

(2) The coupon book will become an investment coupon[1] on the day that it is registered to the owner at the Federal Finance Ministry, which will set up a numbered system of special offices (hereinafter called "registration office") for the purposes of this registration.

(3) Lists of registration offices will be made public by the Federal Finance Ministry.

Section 2

Registration cards I and II will include the following items:

a) The acquisition price of the investment coupon.

b) The birth certificate number of the owner of the investment coupon, his first name, last name, title, permanent address, a description of the owner, and the date of his signature.

c) The number of the registration office, the signature of the employee at the registration office, and the date of registration of the coupon book.

d) The date of issue of the applicable issue of the investment coupons.

Section 3

(1) Apart from items stipulated by Law No. 92/1991 on the Conditions of Transferring State-Owned Assets to Other Persons (hereinafter called "Law"), the investment coupon will include the following additional items:

a) The number of investment points that the owner of the investment coupons can use to assert his right, in accordance with Section 5, Paragraph 2, to purchase shares using the investment coupon (hereinafter called "shares") in corporations, whose shares are being privatized for coupons in connection with lists of enterprises and lists of state property participation in the enterprise of other legal entities,[2] and in concordance with approved privatization projects (hereinafter called "list of projects").

b) The sequential number of each coupon.

(2) Each coupon is composed of three parts provided with the letters A, B, and C. Parts B and C can be detached.

Section 4

(1) The investment coupons of the applicable issue are valid for ten months from the date of issue. The Federal Finance Ministry may extend this deadline.

(2) The date of issue will be determined by the Federal Finance Ministry.

Section 5

(1) Each coupon book will contain the following combination of coupons:

a) Two coupons, each for a one-time purchase order in the amount of 1,000 investment points.

b) Two coupons, each for a purchase order of two times 500 investment points.

c) Four coupons, each for a purchase order of five times 200 investment points.

d) Six coupons, each for a purchase order of five times 100 investment points.

(2) All owners of investment coupons of the applicable issue will have an equal right to shares. The sum total of this right for one owner and one privatization wave (Section 11) amounts to 1,000 investment points.

Section 6

(1) Any and all persons may buy a coupon book for the price of 35 Czechoslovak korunas [Kcs].

(2) The acquisition price of the investment coupon of the applicable issue will amount to Kcs1,000. This price will be paid with a coupon stamp, which will be attached to registration card II when the coupon book is registered.

(3) The coupon card will be 23 x 30 mm in size, will include the state seal of the Czech and Slovak Federal Republic, and will indicate the acquisition price of Kcs1,000.

Section 7

(1) On the basis of a citizens ID or other document replacing it, the registration office will verify whether the citizen submitting the coupon book for registration fulfills the requirements stipulated for the origination of the right to own investment coupons,[3] and whether the information provided on both registration cards is the same and complies with the facts. If the above-mentioned conditions are met, the registration office will complete the registration.

(2) The registration office will provide both registration cards with the signature of the employee at the registration office, the date of registration, and the registration rubber stamp, which will be placed over the coupon stamp.

(3) When registering, the citizen may be represented by a physical or legal entity on the basis and within the limits of an officially verified written authorization.

Section 8

The registration office will detach card I from the coupon book and, without undue delay, send it to the Federal Finance Ministry for the central files.

Section 9

(1) If several coupon books were registered to one citizen at various registration offices, the first registration will be valid. If there are any doubts as to which registration was first, the Federal Finance Ministry will decide which of the registrations is valid. Additional registrations are invalid.

(2) If, during the course of a privatization wave (Section 11), the owner of an investment coupon requests a change of registration office at the registration office that registered his coupon book, the Federal Finance Ministry will execute this change without undue delay.

Section 10

(1) The Federal Finance Ministry will determine the beginning and termination of the time period during which coupon books may be registered. Any registration that takes place outside this time limit will be invalid.

(2) The registration offices will commence with the registration of coupon books after the lists of projects have been published. These lists, drawn up in accordance with information supplied by those central agencies of the republican state administration that are authorized to approve privatization projects[4] (hereinafter called "ministries of the Republics) will be published by the Federal Finance Ministry. (3) Lists in accordance with Paragraph 2 will be drawn up and published for each privatization wave (Section 11).

Part Two: Privatization Wave and Privatization Rounds

Section 11

(1) A privatization wave is a time period, the beginning and termination of which will be determined by the Federal Finance Ministry, and during which the owners of investment coupons may directly or through privatization investment funds (Section 16) assert their right to purchase shares (hereinafter called "submitting an order for shares").

(2) A privatization wave cannot commence until basic information on corporations, which are to be privatized during the given privatization wave using investment coupons, and on privatization investment funds (Section 16) have been published.

Section 12

Once the real number of registered citizens has been determined, the Federal Finance Ministry can use this as a basis to appropriately regulate the number of shares that must be published before the privatization wave commences.

Section 13

(1) Within the framework of each privatization wave, the shares will be offered in individual privatization rounds. A privatization round is a time period, the beginning and termination of which will be determined by the Federal Finance Ministry.

(2) Only shares with a nominal value of Kcs1,000 may be offered for investment coupons.

Section 14

Each privatization round will consist of the following four stages:

a) The announcement of the rate of the shares of individual corporations, which will be offered for sale using investment coupons in the applicable privatization round; for the purposes of this decree, the rate is to be understood as the number of shares with the applicable nominal value, which will be offered for 100 investment points or for other whole multiples of 100 investment points.

b) The ordering of shares.

c) The collection and evaluation of the orders.

d) The publication of the results of the privatization round (Section 25).

Section 15

The Federal Finance Ministry will set the rates of the shares of individual corporations for each privatization round and ensure the publication of these rates.

Part Three: Privatization Investment Funds

Section 16

Investment coupons may also be used to acquire participation in corporations that have been established expressly for this purpose (hereinafter called "privatization investment fund") after prior approval of the ministries of the Republics.

Section 17

(1) The owner of the investment coupon may authorize a privatization investment fund to use the investment points entrusted to it by the owner to purchase shares. He may only do this during the time period preceding

the commencement of the first privatization round (hereinafter called "pre-round").

(2) The beginning and termination of the pre-round will be determined by the Federal Finance Ministry.

(3) The privatization investment fund will purchase shares for the owner of the investment coupon for the investment points entrusted to it by this owner, with the proviso that these shares, together with other shares purchased in this way, will be used to increase the initial capitalization of the privatization investment fund. The privatization investment fund will issue its shares to the owners of the entrusted investment points in an amount equal to initial capitalization that has been increased in this manner. Each of these owners is entitled to privatization investment fund shares at a nominal value corresponding to the proportion between the number of investment points entrusted by him and the total number of investment points entrusted to this fund.

(4) Through the entrusting and assumption of investment points, a contractual relationship will be created between the owner of the investment coupons and the privatization investment fund, the terms of which are the mutual rights and obligations stipulated in paragraph 3.

(5) The entrusting and assumption of investment points will be executed in accordance with Part Four.

Part Four: Ordering Shares and Satisfaction of the Order

Section 18

The shares of any corporation listed in the applicable list of projects may be ordered. Investment points may be entrusted to any privatization investment fund.

Section 19

The owner of an investment coupon may order shares during a privatization round, or may authorize a privatization investment fund in accordance with Section 17 during the pre-round, at the Prague Post Office and Telecommunications Administration in the Czech Republic and at the Bratislava Post Office and Telecommunications Administration in the Slovak Republic, which will set up a numbered system of special offices (hereinafter called "filing office") for this purpose.

Section 20

(1) The owner of an investment coupon will order shares or authorize the privatization investment fund in accordance with Section 17 by entering the identification number of the corporation whose shares he is ordering, or of the privatization investment fund that he is authorizing to acquire shares, in the small preprinted frame on the coupon. The order of shares or the authorization must be entered on all three portions of the coupon in the same way. The preprinted number following the frame designates the number of investment points that will be used for the stated purposes when the identification number is entered in the frame.

(2) If the information provided in the individual portions of the same coupon is not identical, the information entered on part C of the coupon will be valid. If part C is destroyed or lost, the information entered in part B of the coupon will be valid.

(3) The frame on each portion of the coupon forms a line. The owner of the investment coupon must fill in the lines from top to bottom. In part C, in the special frame provided, the owner must write the number of lines in this section where he entered the identification number in accordance with paragraph 1. If this information does not agree with the number of lines that were, in fact, filled out, only the information on the applicable number of the topmost lines will be valid.

(4) The investment coupon must be filled out legibly, and it must not be crumpled or damaged. If the investment coupon has any of these defects, the filing office may reject it when it is submitted for an order.

Section 21

The privatization investment fund will order shares at the registration office and in the manner stipulated for it by the Federal Finance Ministry.

Section 22

(1) The filing office will confirm the acceptance of the order or authorization in accordance with Section 17 by providing all three parts of the completed coupon with its rubber stamp, the date of the submission of the order, and the signature of an employee of the filing office.

(2) The filing office is not obligated to check the information entered on the coupon and is not responsible for any inaccuracy in this information.

(3) When an order is submitted, the sum of Kcs2 will be paid to the filing office for every accepted coupon.

Section 23

The filing office will send part C of every accepted coupon to the Federal Finance Ministry without undue delay for central processing of the orders. Part B of every accepted coupon will remain at the competent filing office for a period of time that will be set by the Federal Finance Ministry. Part A of the coupon will remain in the coupon book as proof of the acceptance of the order or authorization in accordance with Section 17.

Section 24

(1) On the basis of the results of the centrally processed orders, the Federal Finance Ministry will determine which orders submitted within the framework of one privatization round can be satisfied and which cannot.

(2) All orders for shares will be satisfied, if the total demand for these shares was lower than the total supply, or if the total demand is equal to the total supply.

(3) Orders for shares will not be satisfied if the total demand exceeded the total supply by more than 25 percent.

(4) If the total demand for shares did not exceed the total supply by more than 25 percent, the Federal Finance Ministry may stipulate that orders executed by privatization investment funds will only partially be satisfied, and this will be in proportion with the volume of orders executed by the individual privatization investment funds. This reduction may not be more than 20 percent of the overall proportion of shares ordered by individual privatization investment funds. Investment points, corresponding to this reduction can be used by the privatization investment fund in subsequent privatization rounds.

Section 25

(1) In the final stage of each privatization round, the Federal Finance Ministry will notify the registration office of the number of shares that the owners of investment coupons, who are registered with it, and privatization investment funds, which submitted their orders to that registration office, ordered during this privatization round. At the same time, the Federal Finance Ministry will notify the registration offices, as to which of the orders were satisfied during this privatization round. The competent registration office will provide the abovementioned information to the owners and the privatization investment funds on their request.

(2) In the final stage of each privatization round, the Federal Finance Ministry will publish information on those orders that could not be satisfied within the framework of this round.

(3) If the order of shares cannot be satisfied in the manner described in Section 24, the Federal Finance Ministry will stipulate that none of the submitted orders will be satisfied and will offer these shares in the subsequent privatization round. Simultaneously, the Federal Finance Ministry will establish new rates for these shares and will ensure the publication of these rates.

(4) Investment points from orders canceled in accordance with paragraph 3 will not be included in the rights according to Section 5, Paragraph 2.

Section 26

(1) Depending on the development of the supply of and demand for the shares of individual corporations, the Federal Finance Ministry will decide on the termination of the sale of these shares within the framework of the applicable privatization round and will publish this decision.

(2) Investment coupons for the applicable issue that were not used during the privatization wave for which they were issued, or that were not used to the full extent of the right in accordance with Section 5, Paragraph 2, cannot be used during subsequent privatization waves.

Section 27

(1) Within one month of the termination of a privatization wave, the Federal Finance Ministry will notify each owner of investment coupons and each privatization investment fund in writing, as to which of their orders submitted during the course of the entire privatization wave were satisfied. Simultaneously, in the same report, the Federal Finance Ministry will announce the timeframe and the form in which the shares will be handed over to them.

(2) Within one month of assuming shares in accordance with paragraph 1, a privatization investment fund will be obligated to send a written notification to the owners of investment coupons, who provided them with their authorization during the pre-round in accordance with Section 17, about the number and nominal value of the shares to which they are entitled. At the same time, it will notify them of the timeframe and form in which these shares will be handed over to them.

Part Five: Closing Provisions

Section 28

(1) In case of loss or damage of the registered coupon book, or if the pages of the registered coupon book have been used up, the owner of an investment coupon may request the registration of a new coupon book at the same registration office that completed the registration of his original coupon book.

(2) The price for the registration of a new coupon book in accordance with paragraph 1 will be Kcs500 and must be paid prior to the completion of registration by means of a money-order to a special account of the Federal Finance Ministry. The registration of a new coupon book will not increase the rights according to Section 5, Paragraph 2.

Section 29

If a citizen submits several coupon books for registration at one or more registration offices, he will not be entitled to reimbursement for the extra payment on the acquisition price of the investment coupons.

Section 30

If the owner of an investment coupon exceeds his rights according to Section 5, Paragraph 2 when submitting orders, the Federal Finance Ministry will be entitled to bring these facts into keeping with the rights. In so doing, the Federal Finance Ministry, will always give preference to the order submitted earlier rather than to the order submitted later.

Section 31

Information concerning corporations mentioned in Section 3, Paragraph 1, privatization investment funds, and rates of shares will be made public by the Federal Finance Ministry primarily through the registration offices and filing offices.

Section 32

The Federal Finance Ministry will accept decisions in accordance with this decree after agreement with the ministries of the Republics.

Section 33

This decree goes into force on the day it is made public.

Footnotes

1. Section 22 of Law No. 92/1991 on the Conditions of Transferring State-Owned Assets to Other Persons.

2. Section 4, Paragraph 1 of Law No. 92/1991.

3. Section 23, Paragraph 1 a, of Law No. 92/1991 stipulates that items on the investments coupons also include the name and birth certificate number of the citizen.

Section 24 of Law No. 92/1991 stipulates that every Czechoslovak citizen, who is a permanent resident in the territory of the Czech and Slovak Federal Republic and who has reached 18 years of age on the date of the issue of the coupons, has a right to these coupons.

4. Section 2, Paragraph 3 of CNR [Czech National Council] Law No. 171/1991 on the Jurisdiction of the Agencies of the Czech Republic in Matters of Transferring State-Owned Assets to Other Persons and on the National Asset Fund of the Czech Republic.

Section 5, Paragraph 1 of SNR [Slovak National Council] Law No. 253/1991 on the Jurisdiction of the Agencies of the Slovak Republic in Matters of Transferring State-Owned Assets to Other Persons and on the National Asset Fund of the Slovak Republic.

Law on Trade Unions

Property Controls

91CH0934A Budapest MAGYAR KOZLONY in Hungarian No 80, 17 Jul 91 pp 1,725-1,733

["Text" of Law No. 28 of 1991 on the protection of trade union property, equal opportunity in employee organizing efforts, and in the operation of their organizations adopted by the National Assembly at its 12 July session]

[Excerpts] The situation of property in employee interest groups has become unclear as a result of decisions made in the past social system. The legally unsettled situation threatens the ability of these organizations to function and hinders the enforcement of the constitutional right to organize. The National Assembly creates the following law to resolve this situation:

Paragraph 1. The scope of this law shall extend to all employee interest groups (hereinafter: trade unions) registered on the basis of Law No. 2 of 1989 concerning the freedom of association.

Paragraph 2.1. Trade unions shall be obligated to account for their assets.

2.2. The obligation to account for assets shall extend to the following types of property:

(a) Real property;

(b) Fixed assets of a recorded value in excess of 200,000 forints on the effective date of this ["the"] law;

(c) Protected works of art;

(d) Membership or ownership shares held by trade unions in firms established by trade unions or business companies operated with the involvement of trade unions;

(e) Securities;

(f) Funds deposited in bank accounts or managed otherwise;

(g) Assets contributed to foundations.

Paragraph 3. The obligation to account for property shall extend to property conditions existing as of 1 January 1991 and on the effective date of this law, pursuant to the method specified in the law.

Paragraph 4. The organization accounting for property shall be responsible for the authenticity and truthfulness of its disclosure, based on the "Certification of Full Disclosure" provided in the law.

Paragraph 5.1. Disclosure of property shall be submitted to the State Accounting Office prior to 31 August 1991.

5.2. The State Accounting Office shall verify the disclosures, issue a statement concerning the authenticity of the disclosures, report its findings to the National Assembly by 30 November 1991 and shall forward the disclosures to the Organization Responsible for the Temporary Management of Assets (hereinafter: VIKSZ).

5.3. The State Accounting Office shall forward a copy of its report to all trade unions.

Paragraph 6.1. The sale or encumbrance of property described in Paragraph 2. Section (a) and the sale of property described in Paragraph 2. Section (d) prior to the effective date of the law described in Paragraph 10. Section (2) is hereby prohibited. Deviations from this prohibition may be made only pursuant to the provisions of Paragraph 9.2.

Paragraph 6.2. The restriction established in Section (1) relative to property described in Paragraph 2. Subsections (a) and (d) shall not extend to property whose sale or encumbrance has already been consummated in the form of contracts.

Paragraph 7.1. The aggregate property subject to disclosure shall be regarded as property subject to distribution among the various trade unions.

7.2. Until such time that the distribution of property subject to disclosure has been finalized, VIKSZ shall exercise the rights defined in Paragraph 8 over:

(a) Property owned by the National Council of Trade Unions prior to 2 March 1990, enumerated in Paragraph 2.2. and at the disposal of trade unions on the effective date of the law;

(b) All property enumerated in Paragraph 1.2. which the organization required to account for has failed to disclose;

(c) Real property owned by the state and used free of charge by trade unions.

Paragraph 8. To establish financial conditions needed for the organizing efforts of employees and to ensure equal opportunity in the operations of employee organizations, and further, in order to establish common trade union tasks, conditions to protect property and to enable trade union operations, VIKSZ shall be authorized to:

(a) Exercise dispositional authority over property described in Paragraph 7.2. Subsection (a), including the encumbrance and sale of such property;

(b) Exercise dispositional authority over the use of property described in Paragraph 7.2. Subsections (b) and (c).

Paragraph 9.1. The activities of VIKSZ shall be directed by a Council of Directors composed of four members, consisting of one representative from each of the following organizations: The Democratic League of Independent Trade Unions, the National Association of

Workers Councils, the National Federation of Hungarian Trade Unions, and jointly from the rest of the trade union federations represented by the Interest Mediation Council.

9.2. A unanimous decision of the Council of Directors shall be required for the adoption of rules of order and for the sale of property owned by trade unions.

9.3. The Council of Directors shall establish its rules of order within 30 days from the effective date of this law.

9.4. A secretariat shall function alongside the Council of Directors. The secretariat may delegate the functions under its authority without compensation to the property management organizations of the trade unions affected by this law.

Paragraph 10.1. The temporary division of the use of assets to be distributed among trade unions shall be based on the constituent support evidenced in trade union elections to take place within one year from the effective date of this law.

10.2. The temporary division for the use of assets shall be based on law [as published].

10.3. The final division of property shall take place on the basis of a separate law to be enacted by the National Assembly using the principles defined in Section 1.

Paragraph 11.1. This law shall take effect on the day it is proclaimed.

11.2. Paragraph 3 of Law No. 70 of 1990 concerning the property management rights of social organizations shall be replaced by the following provision:

"Paragraph 3. The use of real property based on the use right established by this law shall not be yielded to another person, unless otherwise provided for by law."

[Signed] Arpad Goncz, president of the Republic
Gyorgy Szabad, president of the National Assembly

General Intent

(Legislative intent to accompany the law concerning the protection of trade union assets and equal opportunity for employee organizing efforts and for the operation of their organizations.)

In these days the composition of property owned and used by trade unions is rather heterogeneous. A significant part of the property has been transferred to trade union ownership by state organs, enterprises and institutions, in most instances in conjunction with the fact that in the past system trade unions performed state functions which were alien to the protection of interests. Another part of the property resulted from membership dues income derived from forced trade union membership characteristic of the earlier decades. And further, as a result of management rights discontinued by Law No. 70 of 1990, a not at all negligible size of state real property continues to be used free of charge by trade unions even today.

In the party state days trade union property was typically regarded as so-called social property which enjoyed protection under criminal law. This view was based on the idea that labor was "organized" to an extent of 98 percent.

It is a fundamental requirement of the system change to liquidate coerced associations and to dismantle the former social property in order to permit new owners to establish just claims for constitutional protection of property hereafter.

Unsettled legal and ownership conditions in this field significantly frustrate the possibility to distinguish between trade union functions and state functions, as well as to realize trade union pluralism in practice. It is the purpose of this law to serve as a step in this process, to help resolve the present contradictory situation and to encourage employee activities based on the equality of interest protection organizations.

Above all, it is the purpose of this proposal to assess the magnitude of the aggregate assets owned and used by trade unions, and to secure such assets until such time that the purpose of such assets is defined. Further, it is the purpose of this legislative proposal to establish temporary conditions for the management of trade union property.

Section by Section Analysis

[passage omitted]

Paragraph 6

The proposal ensures that prior to the final distribution of property, "trade union" assets accumulated in the days of the party state be reduced only with the concurrence of all affected parties. For this purpose the law prohibits the sale or encumbrance of real property, while in regard to firms established by trade unions or shares of business owned by trade unions in business organizations established with trade union participation the prohibition applies [only] to the sale of property, enabling a temporary encumbrance of such property to permit continuous operation.

Paragraphs 7 and 8

Consistent with the principles described in the General Intent, the framers of the proposal found it necessary to distribute trade union assets regarded as social property among old and new organizations which represent workers' interests.

No final decision can be reached in this regard until such time that free trade union elections are held. For this reason the proposal describes the types of assets that must be regarded as subject to distribution, and the type

of authority VIKSZ may exercise in regard to specific assets until final distribution of property takes place. [passage omitted]

Attachment 1 to Law No. 28 of 1991 Concerning the Protection of Trade Union Property, and Equal Opportunity in Employee Organizing Efforts and in the Operation of Their Organizations.

Certification of Full Disclosure

We the undersigned being fully aware of our liability under criminal law do solemnly declare that to the best of our knowledge the disclosure we submitted to the State Accounting Office for the purpose of controlling the implementation of the provisions of Law No. 28 of 1991 and which conforms with Attachment 1 to this law is complete based on certificates, documentation, data and information required to ascertain the actual situation, that the disclosure has been prepared in a manner consistent with legal requirements pertaining to accounting and other matters, and that the disclosure contains true data and information.

Dated:—

[To be signed by:] Person responsible for property
Person responsible for accounting
Head of the trade union

Law on Voluntary Dues Payment

91CH0934B Budapest MAGYAR KOZLONY in Hungarian No 80, 17 Jul 91 pp 1,733-1,734

[Law No. 29 of 1991 on voluntary character of payment of membership dues in employee interest groups adopted by the National Assembly at its 11 July session]

[Excerpt] To protect the right of citizens to free association the National Assembly creates the following law:

Paragraph 1. Employers may deduct trade union or other interest group membership dues (hereinafter: membership dues) from the wages of employees only if an employee provides a written authorization to the employer to deduct an amount designated by the employee in the form of membership dues in favor of a trade union or other employee interest group (hereinafter: interest group) designated by the employee.

Paragraph 2.1. The authorization described in Paragraph 1 (hereinafter: authorization) shall take effect only if the employer agrees to perform the function authorized. An employer shall not decline to perform such function if he has already agreed to perform that function on behalf of another employee.

Paragraph 2.2. If an employer agrees to perform the function authorized, he shall be obligated to perform the following functions as long as the authorization is in force:

(a) Deduct membership dues from the employee's wages as part of the payroll accounting process and pay the deducted amount without delay to the designated interest group, and

(b) Deduct the amount of membership dues from the employee's personal income taxes to the extent defined by law.

Paragraph 3. The authorization shall cease if:

(a) The employment relationship ceases,

(b) The employee withdraws the authorization in writing without having to provide a reason for the withdrawal,

(c) The employer provides written notice to all employees having provided written authorization, of his intent to discontinue the further performance of the authorized function, or if

(d) The interest group designated in the authorization ceases to exist.

Paragraph 4. Employers shall be obligated to consider authorizations or withdrawals of authorization submitted within less than five days prior to a payroll period only at in the subsequent payroll period.

Paragraph 5. Employers shall be held accountable for performance on authorizations and withdrawals of authorizations pursuant to rules contained in civil law.

Paragraph 6.1. This law shall take effect on the 30th day following its promulgation.

Paragraph 6.2. Following the effective date of the law dues for membership in interest groups shall be deducted from wages only on the basis of this law, and statements issued earlier for the same purpose become invalid.

[Signed]—Arpad Goncz, president of the Republic

—Gyorgy Szabad, president of the National Assembly

Legislative Intent

On 27 November 1987, SZOT [National Council of Trade Unions] established a new method for the payment of trade union membership dues effective 1 January 1988. The new rules replaced the earlier method of purchasing membership stamps. Under the new rules a membership dues collection system was to be used on the broadest scale: Based on the members' written authorizations employers showed the trade union dues deduction on the employees' payroll stubs and transferred the dues collected to the trade union.

In reality the SZOT decision established an obligation that also burdened employers, because it took into consideration only one possibility: that "an employer would not be able to perform this function for objective

reasons." The possibility that an employer would simply not wish to accept this obligation was not even mentioned in the text.

Until the enactment of this law, this decision of SZOT—which does not even qualify as a legal provision—served as the basis for deducting membership dues.

According to Paragraph 34.1. Subsection (d) of Law No. 45 of 1989 concerning personal income taxes, as further defined by Paragraph 17 of Law No. 102 of 1990 "membership dues not exceeding 300 forints paid (deducted) during the tax year in the form of membership dues in employee interest groups" may be deducted when calculating the personal income tax base.

If membership dues were not accounted for in the framework of payroll accounting, an employee wishing to take advantage of this benefit but who otherwise would not have to file an income tax return would have to file an income tax return solely as a result of this benefit. In this sense then, the deduction of membership dues also serves the interests of employees and does more than provide a greater degree of security to interest groups in collecting their revenues.

The above quoted provision of the income tax law thus established equal rights from the standpoint of tax benefits among various employee interest groups, including those which were established after the above referenced SZOT decision. But in order to establish true equality in terms of rights and opportunities, identical conditions should also have been established with respect to the collection of dues, and in particular with respect to the deduction system which represented a greater degree of security to interest groups.

In the absence of legal provisions the SZOT decision of a long time ago was the only instrument to settle this issue. The interpretation of this decision, and the practice of deductions that evolved on the basis of this decision were not uniform insofar as the applicability of the SZOT decision to interest groups was concerned. Some of these interest groups were established independent from SZOT.

The previous situation was also inconsistent with the Labor Law. Paragraph 49.3. of that law states that "deductions from wages and other compensation to which workers are entitled shall be made only in cases and to the extent provided for by law." Since no previous law provided for the deduction of membership dues in interest groups, the present law also discontinues this legal void.

The law intends to ensure voluntariness and equal opportunity.

Employees may decide for themselves whether they wish to have their membership dues deducted, alternatively, whether they wish to pay their dues directly to interest groups.

The law also provides a choice to employers: They may or may not agree to deduct and transfer membership dues. [passage omitted]

Decree on Firearms, Ammunition Promulgated

Basic Rules, Regulations

92CH0091A Budapest MAGYAR KOZLONY in Hungarian No 98, 10 Sep 91 pp 2,054-2,061

[Government Decree No. 115 of 10 September concerning small arms and ammunition, gas, blank guns, and shooting ranges]

[Text]

To control the manufacture, domestic commerce, acquisition, possession, importation, exportation, and registration of civilian purpose hand firearms (hereinafter: firearms), ammunition, gas and blank guns, and air guns; to provide rules for the licensing, registration and use of shooting ranges, firearms and ammunition storage facilities; and further, to secure the related rights of citizens, to maintain public security, to protect the natural environment and to prevent accidents related to firearms, the government decrees as follows based on authority granted in Paragraph 12 of the decree with the Force of Law No. 17 of 1974 concerning the security of the state and the public:

Section I

General Provisions

Paragraph 1

(1) The force of this decree affects Hungarian citizens within the territory of the Hungarian Republic, persons not holding Hungarian citizenship (hereinafter: foreigners) within the territory of the Hungarian Republic unless otherwise provided for by international agreements, and legal entities and organizations not organized as legal entities but doing business and domiciled in Hungary (hereinafter jointly: legal entities).

(2) The scope of this decree covers firearms (including the main component part of firearms), ammunition (including ammunition elements (component parts), gas and blank guns, air guns, as well as shooting ranges and storage facilities for firearms and ammunition.

Paragraph 2

(1) The scope of this decree does not cover:

(a) Service and training firearms, ammunition and their storage facilities issued by the Ministry of Defense, the armed forces, the police, other forces having police powers under the authority of the Minister of the Interior, services performing national security functions, penal authorities and the customs and revenue services

(hereinafter jointly: armed services); firearms, ammunition and their storage facilities exhibited in troop museums; and the shooting ranges of armed services.

(b) Firearms and ammunition used in the performance of duty by the armed security guard [formerly "armed civilian guard"—see Decree No. 116 of 10 September 1991 below].

(c) Explosive charges not regarded as firearms and industrial work implements which operate with cartridges.

(d) Front-loading museum piece firearms and firearms not suited to fire today's modern ammunition; and

(e) Inactivated firearms and defused ammunition.

(2) The scope of this decree covers firearms and ammunition referred to in Section (1) Subsections (a) and (b) if their service use has been discontinued or if sold in domestic commerce. Determinations as to the introduction and termination of service use are within the authority of the ministers in charge of the respective armed services referred to in Section (1) Subsection (a), and of the Minister of the Interior regarding the organ referred to in Subsection (b).

Paragraph 3

(1) An official permit shall be required for:

(a) The manufacture of, and commerce in firearms, ammunition, gas and blank guns, and air guns.

(b) The acquisition, possession, importation, exportation and transit shipment of firearms, ammunition, and gas and blank guns, unless excepted by the provisions of this decree.

(c) The repair of firearms, the inactivation of firearms and the defusing of ammunition, and to organizing firearms exhibits.

(d) The operation of shooting ranges, and of storage facilities for firearms and ammunition.

(e) The acquisition, possession, importation, exportation and transit shipment of blank cartridge firearms used in theatrical performances and the recording of motion pictures.

(2) The police is authorized to issue and revoke permits and to conduct official proceedings as defined in this decree.

(3) Service, storage and examination fees provided for in separate legal provisions shall be paid for proceedings related to official permits referred to in Section (1).

Paragraph 4

The official permit referred to in Paragraph 3. Section (1) (hereinafter: permit) shall not be issued to natural persons:

(a) Under the age of 18.

(b) Under guardianship excluding or restricting such person's ability to act.

(c) Convicted of an intentional criminal act and not relieved of the adverse consequences stemming from having a criminal background.

(d) In whose possession firearms, ammunition or gas and blank guns are not secure.

Paragraph 5

(1) The issuance of permits may be refused to persons:

(a) Convicted of a negligent criminal act and not relieved of the adverse consequences stemming from having a criminal background.

(b) Fined for abusing firearms or ammunition, for rowdiness, scuffling, making dangerous threats, the disturbance of order, the prohibited possession and use of air guns, and gas and blank guns, the irregular operation of shooting ranges or for violating rules by hunting without a permit, for a period of two years from the affirmation of determinations requiring the payment of such fines.

(2) The police shall suspend licensing proceedings until the announcement of an affirmed judgment if a criminal proceeding against the petitioner of an official permit is in progress.

Paragraph 6

(1) A permit shall be revoked if:

(a) Any condition for issuing a permit, as defined is this decree, ceases to prevail.

(b) An exclusionary condition defined in Paragraph 4. Section (1) Subsections (b)-(d) arises.

(c) The holder of the permit deceases or, if the holder is a legal entity, the legal entity ceases to exist.

(2) A permit may be revoked if:

(a) A cause specified in Paragraph 5. Section (1) arises.

(b) A criminal proceeding is initiated against a permit holder.

(c) A permit holder fails to perform obligations specified in this decree.

(3) Simultaneously with the revocation of a permit, firearms, ammunition, and gas and blank guns covered by such permit shall be surrendered to the police authority having jurisdiction.

(4) Revocation shall remain in force until the circumstance which served as the cause for revocation prevails. The police shall return the permit, firearms, ammunition

[and/or] gas and blank gun to its owner if the cause for revocation had ceased prior to the expiration date of the permit.

(5) The owner of firearms, ammunition, gas and blank guns stored by the authorities may sell such firearms, ammunition, gas and blank guns to persons authorized to possess such firearms, ammunition, gas and blank guns, or may request the inactivation or defusing of these within two years from the date of the permit revocation.

(6) Two years after the date of permit revocation—unless the owner took advantage of the opportunity provided for in Section (5)—the police shall sell the stored firearms, ammunition [and/or] gas and blank guns, and shall pay the proceeds to the owner or to his legal successor after deducting expenses incurred in the process of sale.

(7) The police shall provide for the inactivation or defusing of firearms, ammunition [and/or] gas and blank guns which cannot be sold.

(8) The police shall maintain a record of permits issued pursuant to the provisions of Paragraph 3 until permits expire or for a period specified in separate legal provisions, including data required for the identification of persons and organs holding permits, and data related to the objects covered by the permits.

Paragraph 7

(1) In the interest of maintaining public security, the police may temporarily and for specific periods of time suspend permits already issued for the sale and possession of firearms, ammunition, gas and blank guns; order that firearms and ammunition be stored at the police; and restrict or prohibit the use of firearms and ammunition.

(2) The restriction or prohibition authorized in Section (1) may be decreed by the Minister of the Interior if it becomes necessary to enforce such restriction or prohibition simultaneously throughout the country.

Section II

The Manufacture, Repair, Commerce, Importation and Exportation of Firearms, Ammunition, and of Gas and Blank Guns

Paragraph 8

(1) The civilian purpose manufacture, commerce and possession of the following is prohibited:

(a) Firearms suitable for the firing of a series of shots,

(b) Firearms, and gas and blank guns whose exterior appearance is suitable to create an impression of being objects other than what they are or which are concealed in some other object.

(c) Ammunition equipped with explosive, incendiary or piercing projectiles.

(2) The opinion of a court weapons expert shall be sought if in doubt whether certain firearms fall under the scope of Section (1).

Paragraph 9

(1) Applicants for permits to manufacture firearms, ammunition, gas and blank guns, and air guns shall attach to their applications a professional opinion issued by the Hungarian Handgun Examining Office.

(2) Firearms shall be introduced in commerce only if tested from the standpoint of the safety of operation pursuant to separate legal provisions, and only if the suitability of such firearms has been attested to by a test mark engraved in the firearms and if the firearms are accompanied by valid test certificates.

Paragraph 10

(1) Persons directly involved in the manufacture of firearms, ammunition, gas and blank guns, and air guns shall be professionally qualified to pursue such activities. Persons involved in the repair of firearms shall be professionally qualified to make such repair or to pursue manufacturing activities. Persons directly involved in the commerce of firearms, ammunition, gas and blank guns, and air guns shall have theoretical knowledge and practical experience required for the possession of firearms, as attested to pursuant to rules provided in separate legal provisions.

(2) The knowledge and experience referred to in Section (1) and required for involvement in the commerce of firearms, ammunition, gas and blank guns and air guns shall be attested to by professional qualifications described in Section (1) or by passing an examination given by county police or the Budapest police headquarters.

(3) The head of the legal entity performing the manufacture, sale or repair, or an entrepreneur authorized to pursue such activities shall be responsible for the existence of conditions specified in Sections (1) and (2).

(4) Firearms, ammunition, gas and blank guns, and air guns may be sold only in specialized stores and in appropriately segregated areas within other stores.

Paragraph 11

(1) Holders of permits for the manufacture or commercial sale of firearms, ammunition, gas and blank guns and air guns, or for the repair of firearms shall report to the police within three days:

(a) Any change in the data included in the permit.

(b) The full or partial suspension or termination of the permitted activity.

(c) The name, place and date of birth, mother's maiden name and residential address of all persons who

manage the plant (place of operation) and directly perform the activities (manufacture, sale, repair).

(2) Holders of permits to sell firearms, ammunition, gas and blank guns, and air guns

(a) Shall be entitled to procure and sell without an official permit shots, projectiles, waddings and cartridges without firing caps.

(b) Shall identify the customer who holds a permit to acquire [firearms, ammunition, gas and blank guns, and air guns] when purchase is made.

(c) Shall not sell firearms, ammunition, or gas and blank guns to a customer whose permit to acquire [such goods] is incomplete, altered or does not bear the [required] stamp.

(d) Shall store or keep firearms, ammunition, gas and blank guns, and air guns only in the place and according to the method specified in the permit.

Paragraph 12

A foreigner may be granted a permit to manufacture or sell firearms, ammunition, gas and blank guns, and air guns only if he holds a personal identification card indicating that he is a permanent resident of the Hungarian Republic. Legal entities operating with foreign participation may be granted permits only if their plants (places of operation) are in Hungary.

Paragraph 13

(1) Holders of permits to manufacture, buy and sell, acquire or possess firearms, ammunition, or gas and blank guns may receive a permit to import or export the same.

(2) A license shall also be obtained from the Ministry of International Economic Relations [NGKM] for the commercial use importation, exportation or transit shipment of firearms, ammunition, and gas and blank guns.

(3) Hungarian citizens or foreign permanent residents of the Hungarian Republic as evidenced by personal identification cards who hold permits to acquire firearms, and gas and blank guns shall be authorized to bring to the country firearms, and gas or blank guns indicated on the permit, without having to obtain a special permit.

Paragraph 14

(1) Foreigners, or legal entities not domiciled in Hungary intending to export from, import to or transport through the Hungarian Republic firearms, ammunition, and gas and blank guns shall obtain a license to do so based on proof that the person [who actually effects the exportation, importation or transshipment] holds a permit to manufacture and engage in the commerce of firearms, gas or blank guns, as well as ammunition, and to acquire and possess the same.

(2) Presentation of proof of personal entitlement shall not be required

(a) From foreign sports clubs or members of sports clubs who carry on them firearms or ammunition to participate in marksmanship competitions, [and]

(b) Regarding firearms, ammunition, and gas and blank guns subject to permit and carried aboard a vessel or aircraft, provided that such firearms, ammunition, and gas and blank guns do not leave the vessel or the transit territory of an airport.

(3) Persons not holding Hungarian citizenship shall prove the legality of possessing hunting firearms by demonstrating their personal entitlement to possess such firearms; Hungarian citizens residing abroad may also prove their entitlement to possess hunting firearms by presenting a hunting certificate or hunting permit issued pursuant to laws [by authorities having jurisdiction] at his place of residence.

Paragraph 15

(1) Any holder of a valid permit to possess firearms or ammunition shall be authorized to bring in, take out and transport across the country firearms and ammunition for hunting or for participation in shooting competitions based on a certificate issued by the border customs station and provided that such person stays abroad or in Hungary for a period not longer than 90 days.

(2) Participation in hunting or in marksmanship shall be evidenced by a letter of invitation from the host sports association, or by a hunting permit valid in Hungary by the person entitled to hunt or to organize a hunt.

Paragraph 16

Any holder of a certificate or permit authorizing the importation or transit shipment of firearms, ammunition, gas and blank guns shall

(a) Be authorized to possess and use firearms, ammunition as well as gas and blank guns as provided for in this decree,

(b) Be permitted to deposit his firearm, ammunition, gas or blank gun at the police for a fee, [and]

(c) Present for inspection the firearm, ammunition, gas or blank gun shown in the permit at the border customs office both upon entering and exiting the country.

Section III

Acquiring and Possessing Fire Arms and Ammunition

Paragraph 17

(1) Any natural person may obtain a permit to acquire and to possess firearms and ammunition provided that he submits an application for the acquisition of a

(a) Firearm designed for hunting and to be used for the purposes of hunting, provided that such person complies with the personal criteria for the pursuit of hunting established in separate law.

(b) Firearm designed for hunting and to be used in the course of service duty, provided that such person is a forester, a professional hunter, an agricultural guard or a guard of the natural environment.

(c) Firearm to be used in the course marksmanship, provided that such person is a certified marksman.

(d) Hand gun for purposes of self-defense, provided that such person is a professional member of an armed organ, a judge, a prosecutor, an investigator attached to the prosecutor's office, a National Assembly representative, a member of the Cabinet, a state secretary, a deputy state secretary, a main division chief in a ministry or a mayor (lord mayor), and provided that such person proves that due to his activities his life and physical safety requires increased protection.

(2) Subject to conditions enumerated in Section (1), a permit authorizing the acquisition and possession of firearms by natural persons shall be granted only if

(a) The petitioner's health enables him to possess firearms.

(b) The petitioner takes a theoretical and practical examination required for the possession of firearms and provided that such person is capable of the safe use of firearms in the judgment of the examiner; [and if]

(c) None of the exclusionary conditions provided for in Paragraph 4 apply and if the provisions of Paragraph 5. Section (1) do not apply.

(3) The police may permit the acquisition and possession of firearms for purposes of marksmanship to a certified marksman even without complying with the condition specified in Paragraph 4. Subsection (a).

(4) Prevailing health conditions required for the possession of firearms shall be attested to by a medical certificate attached to the petition. Physical fitness criteria shall be established in separate legal provisions.

(5) Theoretical and practical knowledge of firearms shall be attested to pursuant to criteria established in separate legal provisions.

Paragraph 18

(1) The following legal entities may be issued permits to acquire and possess firearms:

(a) Public administrative agencies, business organizations, associations, scientific research institutions, museums, educational and training institutions engaged in forest and wildlife management, forestry and the protection of the natural environment, provided that these organizations apply for a permit and that firearms are required in the course of their functioning.

(b) Registered social organizations and sports clubs organized for the purpose of marksmanship for firearms used in sports.

(c) For the type of firearm used in marksmanship training, [legal entities] which hold permits for the use of a shooting range.

(d) Relative to the protection of property the legal entity which performs the guarding of its own or others' property, provided that in the judgment of the police the acquisition and possession of firearms is required for the performance of such functions.

(2) Hunting firearms issued on the basis of Subsection (a) of Section (1) may only be transferred by the legal entity to persons who possess permits authorizing the possession of an identical type of firearm.

(3) In its application for a permit the legal entity defined in Section (1) shall name the employees and members to whom the legal entity intends to assign firearms for the purpose of safeguarding property. The persons to be enumerated in the permit and to be authorized by the police to safeguard property must comply with the criteria for the possession of firearms, as specified in this decree.

Paragraph 19

(1) The type and number of firearms to be authorized shall be specified in the permit to acquire firearms. Such permit shall be valid for three months and may be extended for an additional three months.

(2) The holder of a permit to acquire a firearm shall present the acquired firearm to the police for the purpose of issuing a permit to possess a firearm. If not used within eight days, permits to acquire firearms shall be returned to the police.

(3) No permit to acquire firearms is required for the acquisition of subcaliber barrels or adjustable barrels by those who hold a permit for a firearm of the same kind. In such cases the holder of the permit shall present the subcaliber barrel or adjustable barrel at the police for inspection, and for recording the acquisition of these items on the permit within eight days from taking possession of these items. No fees shall be charged for recording the acquisition of subcaliber barrels or adjustable barrels in the permit.

(4) A holder of a permit to acquire or possess a firearm may acquire and possess ammunition without a separate permit.

(5) A permit to acquire and to possess a firearm shall be obtained in person by a natural persons, and through the person entitled to represent such artificial person if the applicant is an artificial person.

Paragraph 20

(1) Permits issued for the possession of firearms and ammunition shall be valid for four years; the validity of such permits may be extended upon request for an additional four years, provided that the conditions established for holding a permit continue to prevail, as verified by a repeat examination.

(2) The validity of permits issued for handguns for self defense purposes may be extended upon request even if the entitled person's work or service relationship, or tenure in office has ceased, provided that other conditions for the possession of firearms established in this decree prevail.

Paragraph 21

(1) Any holder of a permit to possess firearms:

(a) Shall be entitled to purchase and possess ammunition, and shall be permitted to authorize another holder of an identical permit to purchase ammunition.

(b) Shall be permitted to transfer his firearm and ammunition to a merchant authorized to accept such transfer, and shall be permitted to sell such firearm and ammunition to any holder of a permit to acquire firearms or ammunition.

(c) Shall present his permit to possess firearms and ammunition and the receipt attesting to the transfer of a firearm and ammunition to the police organ which issued the permit within eight days from date of sale of the firearm or ammunition.

(d) Shall carry his hunting firearm unloaded and in a case in inhabited areas, public places and public vehicles (except aircraft). Self-defense firearms may be carried loaded, protected against accidental firing and concealed.

(e) Shall not carry or use firearms under the influence of alcohol, narcotic drugs, or materials or preparations having a narcotic effect.

(f) Shall clean his weapon only when unloaded in a place where the life or physical safety of another person is not endangered.

(g) Shall be permitted to transfer his hunting rifle and ammunition for purposes of repair, rental ["rental shot"—obscure term] or hunting to any holder of a permit to possess a firearm.

(h) Shall carry on him his permit to possess firearms whenever carrying or using firearms.

(i) Shall report to the police any change in data entered in the permit; and

(j) Shall present his firearm for examination by the Hungarian Handgun Examining Office whenever the validity of the certificate of examination expires and following the completion of repairs defined in legal provisions concerning examination of civilian hand guns, but in any event at least once every five years.

(2) Firearms and ammunition may be stored only in permanently inhabited housing units or in guarded buildings, [and within those] in wooden or plywood cabinets equipped with a security lock. Firearms shall be unloaded while stored, and shall be stored separately from the ammunition. Hatch locks in buildings (premises) used for the storage of firearms issued to legal entities shall be secured with steel grates.

(3) The police may order the installation of security alarm and other equipment and the use of appropriate guard personnel in buildings used for the storage of firearms and ammunition.

Paragraph 21

(4) Employees and members of legal entities defined in Paragraph 18. Section (1) Subsection (d) providing property protection services may carry their firearms in inhabited areas, public places and public vehicles openly when wearing a uniform.

(5) Natural persons may transfer their firearms only to persons who hold a permit for the possession of an identical type of firearm.

Section IV

Rules Pertaining to the Acquisition and Possession of Air Rifles, Gas Rifles, and Blank Guns

Paragraph 22

The provisions of Section III shall be applied to air guns, gas and blank guns with changes specified under this section.

Paragraph 23

(1) Air guns, gas and blank guns shall be stored separate from their ammunition and caps in a well locked place to which unauthorized persons have no access.

(2) No changes shall be made in air guns, gas and blank guns which change the character of these weapons so as to become firearms.

Paragraph 24

(1) Any legal entity or natural person not excluded by the provisions of Paragraph 4 shall be entitled to acquire and possess air guns.

(2) Air guns may be used

(a) At shooting ranges (shooting ranges in basements, rooms), shooting galleries and in private places while observing rules of safety.

(b) In hunting areas with the permission of the person entitled to hunt, and in protected natural areas with the permission of the authority in charge of protecting the area.

(3) The use of air files shall not endanger the physical safety, belongings and natural values of others.

(4) Persons younger than age 18 shall use air guns only under the supervision of an adult capable to act.

(5) Air guns must be carried only in cases in mass transportation vehicles—except in aircraft—and in public places.

Paragraph 25

(1) Permits to acquire and possess gas and blank guns may be granted to legal entities for self-protection and for the protection of property, and to natural persons not excluded under the provisions of Paragraph 4.

(2) The possession of gas and blank guns may be authorized only if the Hungarian Handgun Examining Office has tested such weapons and has verified the suitability of such weapons by engraving a test mark.

(3) The use of gas and blank caps which do not conform with Hungarian standards is prohibited.

Section V

Rules Pertaining to Shooting Ranges

Paragraph 26

(1) A permit to establish and operate a shooting range may be granted to a legal entity, a Hungarian citizen or a foreigner holding a personal identification card authorizing permanent residence which/who have purchased an entrepreneur's certificate and are not restricted by the provisions of Paragraph 4.

(2) In granting a permit to construct a shooting range the police shall act as the specialized authority assisting the building authority; in operating a shooting gallery the building authority shall act as the specialized authority assisting the police.

(3) A permit to operate a shooting range may be issued only upon the purchase of liability insurance for the shooting range as a dangerous facility and upon police approval of the rules and regulations of the shooting range.

(4) Firearms and ammunition, as well as targets to be used at the shooting range shall be consistent with the rules and regulations of the shooting range.

(5) Shooting at an animal in a shooting range is prohibited.

Paragraph 27

(1) The holder of a permit to operate a shooting range shall

(a) Post the permit to operate a shooting range and the rules and regulations of the shooting range in a conspicuous place.

(b) Observe and enforce the provisions of the rules and regulations of the shooting range when the shooting range is in use.

(c) Provide for the maintenance of the shooting range.

(d) Obtain a new shooting range operating permit if the quality or method of use of the shooting range is changed.

(2) Shooting exercises may only be conducted by persons complying with conditions specified in Paragraph 17. Section (2). The person holding the permit to operate the shooting range, or the head of the legal entity holding the permit shall be responsible for the enforcement of required conditions.

(3) The police shall revoke a permit to operate a shooting range if the holder of the permit repeatedly or gravely violates the provisions of the permit or of the rules and regulations of the shooting gallery.

Section VI

Miscellaneous Provisions

Paragraph 28

Firearms, gas and blank guns shall only be used for authorized purposes.

Paragraph 29

(1) Cross-bows may be used exclusively in archery, in a shooting range designated for this purpose and by appropriately applying security provisions.

(2) Spear-guns may be used only for scientific and veterinary purposes.

Paragraph 30

If the holder of a permit deceases or is discontinued, the legal successor shall turn in the permit, the firearm, ammunition, gas and blank gun to the police within eight days from the date of death or termination.

Paragraph 31

(1) Any person who acquires a firearm, ammunition, gas and blank gun whose acquisition and possession is subject to a permit based on this decree shall surrender the same to the police as soon as possible.

(2) Any [present] holder of a permit for the possession, manufacture or sale of firearms and ammunition, or for the operation of a shooting range shall present to the police such permit, and if requested by the police the firearm and ammunition, no later than 31 March 1992 and request the renewal of the permit.

(3) The police shall revoke the permit within 90 days from date of presentation if it determines that the conditions specified in this decree have not been met, or if it regards the application of the provisions of Paragraph 5. Section (1) as justified.

(4) The permit of a person failing to perform the Section (2) obligation by his own fault shall lose its validity on 31 March 1992.

(5) Any person who loses a firearm, ammunition, gas and blank gun whose acquisition and possession is subject to a permit, or loses the permit itself shall report this fact to the police within three days from the date of learning such loss.

(6) Holders of permits to operate shooting ranges shall purchase the liability insurance referred to in Paragraph 26. Section (3) within 90 days from the effective date of this decree.

Paragraph 32

(1) Proceedings under the authority of this decree shall be conducted pursuant to the provisions of Law No. 1 of 1989 concerning general state administrative procedures.

(2) The police shall verify that the obligations established in the legal provision and in the permit are performed. Permit holders shall enable the performance of such verification, shall provide access to the person performing the verification to the premise used for storage purposes and shall provide to such person the necessary information, and shall surrender upon request by, and to such person a firearm, air gun, gas and blank gun.

Paragraph 33

Any person in possession of a gas or blank gun on the effective date of this decree shall submit an application for an official permit within 60 days from the effective date of this decree, or shall surrender the gas gun, blank gun and caps to the police.

Section VII

Definitions

Paragraph 34

(1) In the context of this decree

(a) "Firearm" shall mean any implement whose barrel is capable of launching a projectile with a muzzle velocity ["barrel muzzle energy"] larger than 7.5 joules with the help of gas (gunpowder gas, condensed air, etc.).

(b) "Main component part of firearm" shall mean the barrel, the lock, the casing which holds the barrel and the lock, as well as the subcaliber barrel and the adjustable barrel.

(c) "Handgun" shall mean a pistol or revolver whose barrel length does not exceed 30 centimeters.

(d) "Air gun" shall mean a rifle or pistol operated with condensed air or other condensed gas, capable of launching a projectile with a force of less than 7.5 joules.

(e) "Gas and blank guns" are implements capable of firing only blank caps or gas caps.

(f) "Inactivated firearm" shall mean an implement not capable of accepting live ammunition or of firing ammunition.

(g) "Ammunition" shall mean any cartridge assembly that includes a bullet, gun powder and ignition compound; ammunition of the Lefaucheux type and ammunition constructed earlier shall not be regarded as modern ammunition.

(h) "Ammunition elements," "(ammunition components parts)" shall mean gunpowder, cartridge with an ignition compound used for the assembly or refilling of ammunition, and the catch.

(i) "Shell cartridge, blank cartridge and alarm cartridge" shall mean ammunition without a projectile capable of creating a sound, light and smoke effect, and cartridges suitable for industrial use.

(j) "Gas cartridge" shall mean alarm ammunition without a projectile containing additives that irritate the eye and the respiratory system.

(k) "Shooting range" shall mean an area or building for the purpose of pursuing marksmanship and for the testing of firearms.

(l) "Firearm and ammunition storage facility" shall mean a confined place or object suitable for the secure storage of firearms and ammunition.

(m) "Manufacture" shall mean the production of firearms, ammunition, gas and blank guns, the creating of the main parts of these and the assembly of the manufactured and created parts.

(n) "Firearms repair" shall mean the exchange of parts of firearms worn out or rendered useless for the same firearms parts, small-scale changes made in the targeting equipment of firearms; and further, the restoration of the operating capacity of firearms and the inactivation of firearms as well as work on firearms in the course of which the barrel of the firearm is changed so as to be able to fire ammunition of a caliber that is different from the original.

(o) "Acquisition of firearm, ammunition, gas and blank gun" shall mean purchase, receipt as a gift, rental, exchange or inheritance.

(p) "To possess a firearm, ammunition, gas and blank gun" shall mean possession, carrying and storing.

(q) "Use of firearm, gas and blank gun" shall mean firing a shot with the same.

(2) The opinion of a court expert shall govern in case of doubt whether a certain object is covered by the concepts defined in this decree.

Section VIII

Closing Provisions

Paragraph 35

(1) The minister of the interior is authorized to promulgate a decree in concurrence with other ministers to define the following:

(a) Rules for police authority and jurisdiction.

(b) Detailed rules for data provision and record-keeping obligations related to the manufacture, sale, repair, importation, exportation, possession of firearms, gas and blank guns, air guns and ammunition, as well as to shooting ranges.

(c) Detailed rules concerning inactivation, storing by the authorities, depositing and destruction.

(d) Criteria for training, specialized knowledge and practical experience related to firearms, and the verification of compliance with such criteria.

(e) Safety requirements related to firearms, ammunition, gas and blank guns, and air guns, as well as to the manufacture, commerce and repair of these, and further, to shooting ranges.

(f) The content and form of printed forms and permits related to the licensing process; and

(g) Rules for the importation, possession, exportation and transit through the country of firearms belonging to foreign security personnel on the basis of mutuality.

(2) The minister of the interior is authorized to define, jointly with the finance minister the amount of service, storage and examination fees to be collected in the course of proceedings.

(3) The minister of public welfare is authorized to establish criteria for physical fitness with the concurrence of concerned ministers, and to provide detailed rules for health examinations.

Paragraph 36

Paragraph 19 of Government Decree No. 17 of 14 June 1968 concerning certain rules violations shall be replaced with the following provision and shall be amended by Paragraph 19/A:

"Prohibited possession and use of air guns, and gas and blank guns, the irregular operation of shooting ranges

"Paragraph 19. Section (1) Any person

"(a) Who violates rules concerning the manufacture, commerce, acquisition bearing or use of air guns, and gas and blank guns; [and/or]

"(b) Who violates the requirements of operating a shooting range

"May be fined to an amount not exceeding 10,000 forints.

"Section (2) Rules violations defined in Section (1) shall be under the authority of the police.

"Illegal use of cross-bows and spear-guns

"Paragraph 19/A Section (1) Any person who uses a cross-bow or spear-gun contrary to law

"May be fined to an amount not exceeding 5,000 forints.

"Section (2) Rules violations defined in Section (1) shall be under the authority of the police."

Paragraph 37

Council of Ministers Decree No. 39 of 30 October 1976 concerning the civilian armed guard is hereby amended as follows:

The designation "civilian armed guard" shall be changed to "armed security guard." Wherever legal provisions refer to "civilian armed guard," this designation shall be understood to mean "armed security guard."

Paragraph 38

(1) This decree takes effect on 1 October 1991, simultaneously, the following lose force:

(a) Minister of the Interior Decree No. 2 of 15 May 1968 concerning air guns and blank pistols.

(b) Minister of the Interior Decree No. 2 of 1975 concerning firearms, ammunition and shooting ranges.

(2) The provisions of this decree shall also be applied in regard to cases in progress, with judgment pending.

[Signed] Dr. Jozsef Antall, Prime Minister

Amendment to Civilian Armed Guard Decree

92CH0091B Budapest MAGYAR KOZLONY in Hungarian No. 98, 10 Sep 91 p 2,061

[Government Decree No. 116 of 10 September amending Council of Ministers Decree No. 39 of 30 October 1976 concerning the civilian armed guard *]

[Text] Based on authority granted in Paragraph 12 of Decree with the Force of Law No. 17 of 1974 concerning state and public security, the Cabinet orders as follows:

Paragraph 1

Paragraph 5 of Council of Ministers Decree No. 39 of 30 October 1976 concerning the civilian armed guard (hereinafter: R.) shall be amended by adding the following Section (2), and by designating the present text as Section (1):

"Section (2) The advance concurrence of the police is required for the establishment of an employment relationship. The police may refuse to concur if the interest of internal order and public security so warrants."

Paragraph 2

Paragraph 6 of R. shall be replaced with the following provision:

"Paragraph 6. A Hungarian citizen with no criminal record, fit to perform armed duty and younger than 45 years of age may become an armed security guard provided that he proves to possess professional knowledge and practical experience for managing firearms as defined in separate legal provisions, and further, provided that he complies with health and physical fitness criteria defined in separate legal provisions."

Paragraph 3

(1) This decree takes effect on 1 October 1991.

(2) Armed security guards having an employment relationship on the effective date of this decree shall verify compliance with the criteria enumerated in Paragraph 2 within six months from the effective date of this decree.

[Signed:] Dr. Jozsef Antall, Prime Minister

* Cabinet Decree No. 115 of 10 November 1991 concerning hand arms and ammunition, gas and blank guns, as well as air guns and shooting ranges, has changed the designation "civilian armed guard" to "security armed guard" [as published].

Law on Autocephalic Orthodox Church Relations

92EP0021A Warsaw DZIENNIK USTAW in Polish No 66, 29 Jul 91 Item No 287 pp 846-852

[Law dated 4 July governing the relations of the state with the Polish Autocephalic Orthodox Church]

[Text]

Section I

Chapter 1. General Regulations

Article 1. The Polish Autocephalic Orthodox Church, henceforth referred to as "the Church," is part of the Universal Orthodox Church, and remains united with it on dogmatic and canon issues. It is independent of any spiritual or lay power from outside the country.

Article 2. 1. In its internal affairs, the Church proceeds from its own laws, freely exercises its spiritual and jurisdictional powers, and administers its affairs.

2. In its internal operations, the Church uses the Old Church Slavonic language and the native languages of its believers.

Article 3. 1. The present law sets forth guidelines for relations between the State and the Church, including the legal and property position of the Church.

2. The law dated 17 May 1989 on guarantees for the freedom of conscience and religion (DZIENNIK USTAW, No. 29, Item 155, and 1990, No. 51, Item 297, No. 55, Item 321, and No. 86, Item 504) applies to matters related to the Church that are not regulated by the present law.

Article 4. 1. Issues associated with relations between the State and the Church and the issues of interpreting the present law are considered by joint teams, consisting of the authorized representatives of the Government of the Republic of Poland and the Holy Synod of Bishops, on the principle of parity.

2. The provision of Paragraph 1 does not violate the competence of the state organs and organs of the Church.

Chapter 2. Corporate Persons of the Church and Their Organs

Article 5. 1. The corporate persons numerated in Article 6 belong to the organizational structure of the Church.

2. Whenever a reference is made to the Church authorities in the present law, this means an organ of the relevant Church corporate person.

Article 6. 1. The following are the corporate persons of the Church, in keeping with Article 10, Paragraph 1:

1) Polish Autocephalic Orthodox Church as a whole (Metropoly),

2) Dioceses,

3) Office of the Orthodox Ordinary of the Polish Armed Forces,

4) Parishes,

5) Monasteries and convents,

6) Orthodox theological seminaries,

7) Schools of icon painting or church singing,

8) The Orthodox Metropolitan Charity Center,

9) Orthodox diocesan charity centers,

10) Brotherhoods of Orthodox youth,

11) Church brotherhoods.

2. The following are the organs of the corporate persons mentioned in Paragraph 1:

1) For the Church as a whole—the Local Synod, the Holy Synod of Bishops, and the Orthodox metropolitan of Warsaw and all Poland, henceforth referred to as "the Metropolitan,"

2) For a diocese—diocesan bishop,

3) For the Office of the Orthodox Ordinary of the Polish Armed Forces—the Orthodox military ordinary,

4) For a parish—parish priest,

5) For a monastery (convent)—father (mother) superior,

6) For an Orthodox theological seminary—rector,

7) For schools of icon painting or church singing—director,

8) For the Orthodox Metropolitan Charity Center—director,

9) For an Orthodox diocesan charity center—director,

10) For a brotherhood of Orthodox youth—chairman,

11) For a church brotherhood—chairman.

3. The Local Synod, which is the National Synod of the Church, is the supreme power of the Church.

4. The responsibilities of the Local Synod, the Holy Synod of Bishops, and the Metropolitan are established by the Internal Statute of the Church which is adopted by the Local Synod. Provisions of the Statute may not run counter to the present law.

5. The responsibilities of diocesan bishops are also those of the Metropolitan and the archbishops in the dioceses they head.

6. The Church as an entity is represented by the Metropolitan in matters of property ownership.

7. The fathers (mothers) superior of monasteries and convents may use other traditional titles.

Article 7. At the request of the Holy Synod of Bishops, other organizational units of the Church may be granted the status of corporate persons by an order of the minister-head of the Office of the Council of Ministers.

Article 8. A Church corporate person is not responsible for the obligations of another Church corporate person.

Article 9. Publishing houses, production, service, and commercial establishments of the Church, charitable and guardianship units, and schools and educational and instructional facilities are not corporate persons; they operate within the framework of the Church corporate persons which set them up.

Article 10. 1. The organizational units of the Church which are referred to in Article 6, Paragraph 1, Points 2 through 11 become corporate persons as of the moment the proper organ of general state administration is notified by the Church authorities about their establishment.

2. The following are the proper organs:

1) With regard to the corporate persons mentioned in Article 6, Paragraph 1, Points 2, 3, 8, and 10—minister-head of the Office of the Council of Ministers,

2) In other cases—the voivode.

3. The notification must include:

1) The name of the Church corporate person,

2) Its seat,

3) With regard to dioceses and parishes—their territorial extent.

4. The proper Church authorities notify the organ of the government general administration immediately about:

1) Changes concerning the name and seat of a Church corporate person, and changes of its boundaries,

2) Mergers, divisions, and cancellations of Church corporate persons.

5. A copy of the notification referred to in Paragraphs 3 and 4, with a confirmation of receipt placed on it, is proof of the obtained status of corporate person.

6. The Church authorities notify the proper organ of general government administration about appointing or recalling individuals performing the functions of the organs of the Church corporate persons. The notification shall include the first and last names, citizenship, and place of residence of the individual in question.

Article 11. 1. The establishment or abolition of a Church organizational unit outside the borders of the Republic of Poland may occur in compliance with the regulations of the state in whose territory its seat is located.

2. Prior to setting up the Church organizational unit referred to in Paragraph 1, the Holy Synod of Bishops consults the minister-head of the Office of the Council of Ministers. His failure to offer substantiated reservations within 60 days of the date of notice is considered to be an expression of consent.

Section II. Operation of the Church

Chapter 1. Public Worship

Article 12. 1. The organization and administration of public worship are the exclusive jurisdiction of the Church.

2. Religious burial rites and services for the dead may be performed in communal cemeteries in compliance with the public-order regulations in effect.

Article 13. The routes and schedules of processions or pilgrimages on public roads are coordinated with the proper organs of general government administration or self-government organs as far as traffic safety is concerned.

Article 14. 1. Individuals who are members of the Church are entitled to celebrate Orthodox holidays also in keeping with the Julian calendar; the holidays are as follows:

1) 7 January—the first day of Christmas,

2) 8 January—the second day of Christmas,

3) 19 January—Lord's Baptism,

4) 7 April—Annunciation of the Holy Virgin,

5) Second day of Easter,

6) 19 August—Transfiguration of Our Lord,

7) 28 August—Assumption of the Holy Virgin.

2. The individuals referred to in Paragraph 1 are entitled to a leave without pay from their work or studies on these days, unless these days are statutory days off.

3. Minors may exercise the right referred to in Paragraph 2 at the request of their parents or legal guardians.

Chapter 2. Catechism and Instruction

Article 15. 1. The Church is entitled to carry out catechism and religious instruction.

2. Catechism and religious instruction are organized along the guidelines and through the procedures envisaged in other regulations.

Article 16. 1. The Church corporate persons have a right to start and operate schools and other educational, instructional, and guardianship and upbringing establishments along the organizational and program guidelines set forth in relevant laws. They are denominational in nature, and are subordinated to the Church authorities.

2. The minister of public education shall determine, in coordination with the Holy Synod of Bishops, the types of schools and establishments mentioned in Paragraph 1, guidelines for establishing them, and conditions for operating and supervising them; he may also establish guidelines for their subsidization.

Article 17. 1. Teachers and educators employed by schools and other educational, instructional, and guardianship and upbringing establishments operated by Church corporate persons, as well as lay teachers in theological seminaries and schools of icon painting and church singing, enjoy the rights and have the duties established for teachers and educators employed in state-operated schools and educational, instructional, and guardianship and upbringing establishments, with Paragraph 2 taken into account.

2. The minister of public education sets forth the specific extent of the rights and duties referred to in Paragraph 1 at the request of the Holy Synod of Bishops.

3. The employees of schools and other educational, instructional, and guardianship and upbringing establishments who are not teachers or educators are entitled to the rights and benefits envisaged for this category of employees working at state schools and establishments.

Article 18. 1. Students at schools operated by the Church corporate persons are entitled to the benefit of the public health service and reduced fares in public transit on par with the students of state schools.

2. The parents or legal guardians of the students of church schools are entitled to family benefits.

Article 19. 1. The Holy Synod of Bishops has the right to set up and operate higher schools of theology.

2. The Church is entrusted with the right to offer education in the field of Orthodox theology at an independent scientific and educational unit within the framework of the Christian Academy of Theology.

3. The Church authorities are entitled to set up Church scientific and scientific-instructional institutions. They do not enjoy the rights envisaged by Articles 17 and 18.

Article 20. Members of the clergy and members of monastery (convent) communities are entitled to study at state schools of all degrees and types. They are subject to regulations in effect while retaining the right to wear the Church attire.

Chapter 3. Ministry to the Armed Forces and Military Service by Members of the Clergy

Article 21. 1. Freedom to engage in practicing religion as they wish is ensured for all individuals in military service and their families.

2. An opportunity to take part in the Holy Liturgy on Sundays and Orthodox holidays outside the compounds of military units is ensured for soldiers on active military duty if there is an Orthodox Church in the locality where the unit is stationed or in its vicinity, and if there is no conflict with important official duties.

3. Military chaplains enjoy complete freedom to implement the guidelines included in Paragraphs 1 and 2, in particular through individual contacts with soldiers, including within the compounds of military units.

Article 22. 1. Regulations on military service by career servicemen apply to military chaplains. The chaplains form a separate personnel corps of career servicemen.

2. The military chaplains report to military organs with regard to military service, and to the Church authorities with regard to ministry.

3. The statute of ministry to the armed forces is developed in coordination with the minister of national defense, taking into account the subordination following from Paragraph 2. The statute is adopted by the Holy Synod of Bishops and is released by the minister of national defense.

Article 23. 1. Ministry to the armed forces operates within the framework of the Office of the Orthodox Ordinary of the Polish Armed Forces.

2. The Orthodox military ordinary heads the Office of the Orthodox Ordinary of the Polish Armed Forces.

3. The Orthodox military ordinary is appointed by the minister of national defense upon the presentation of his candidacy by the Holy Synod of Bishops.

4. The Orthodox military ordinary ceases to perform his functions when:

1) He is discharged from career military service,

2) His request to resign is accepted by the minister of national defense and the Holy Synod of Bishops,

3) He is recalled from this position by the minister of national defense or the Holy Synod of Bishops. These decisions require joint coordination.

Article 24. 1. The Orthodox military ordinary, in coordination with the Holy Synod of Bishops, submits requests to nominate military chaplains or discharge them from career military service to the minister of national defense.

2. Military chaplains minister within the territories of individual dioceses. At least one military chaplain should be appointed to each diocese.

3. Military Orthodox parishes may be created in keeping with the needs of ministering to the armed forces.

Article 25. 1. Regulations on the deferment of basic military service by virtue of studies apply also to the seminarians of the Orthodox Theological Seminary and novices of [monastic] orders.

2. Members of the clergy who have taken holy orders and monks who have taken vows are discharged to reserves.

They are not called up for military exercises in peacetime, except for retraining for performing the duties of a chaplain with the consent of a diocesan bishop or the superior of a monastery.

3. The individuals referred to in Paragraphs 1 and 2 are assigned as follows in keeping the needs of the armed forces in the event of the announcement of mobilization and in time of war:

1) Members of the clergy—to perform the duties of military chaplains,

2) Seminarians of the Orthodox Theological Seminary and monks—to render medical service or service in civil defense.

4. In the event of the announcement of mobilization and in the time of war, the proper military organs, in coordination with the diocesan bishops, ensure that the necessary number of the clergy from among those subject to mobilization are left to provide pastoral services for the populace.

Chapter 4. Special Ministries

Article 26. 1. The right to engage in religious practices and catechism, with mutual tolerance exercised, is ensured for children and young people staying at educational and guardianship institutions, as well as sanatoriums, preventive treatment facilities, and hospitals, and also in summer and holiday camps inside the country. In particular, said children and students are entitled to take part in Holy Liturgy on Sundays and Orthodox holidays.

2. Specific regulations concerning the matters referred to in Paragraph 1 shall be set forth by the minister of public education and the minister of health and social welfare, in coordination with the Holy Synod of Bishops.

Article 27. 1. The right to practice religion and to use religious ministrations is ensured for individuals staying in hospitals and social welfare establishments.

2. With a view to exercising the rights referred to in Paragraph 1, the managers of the state establishments in question shall employ chaplains if such are referred to them by diocesan bishops, and shall allocate adequate premises for a chapel or make other premises available for these purposes.

Article 28. 1. Individuals under temporary arrest may practice religion and listen to services broadcast by the mass media, as well as use individual religious ministrations with the consent of the organ inwhose custody they remain.

2. Convicts are given an opportunity to practice religion, use religious ministrations, and participate in services held on Sundays and Orthodox holidays on adequately adapted premises in the facility in which they are held. Individuals who cannot take part in the services held on the compound of the facility should be given an opportunity to listen, on separate premises as needed, to services broadcast by the mass media.

3. Juveniles held in correctional facilities and reform schools for minors are given the opportunity to practice religion, use catechism and religious ministrations, and participate in Holy Liturgy on Sundays and Orthodox holidays. Juveniles who cannot take part in Holy Liturgy should be given an opportunity to listen, on separate premises as needed, to services broadcast by the mass media.

4. With a view to the exercise of the rights of the persons referred to in Paragraphs 1 through 3, the managers of the facilities in question sign contracts with members of the clergy assigned by diocesan bishops on performing the duties of chaplains free of charge.

Chapter 5. Church Organizations and Orthodox Brotherhoods

Article 29. 1. Freedom of association with a view to accomplishing tasks following from the mission of the Church is granted to the members of the Church.

2. The right defined in Paragraph 1 is exercised within the framework of:

1) The brotherhoods referred to in Article 6, Paragraph 1, Points 10 and 11, and Church organizations to which the law on associations does not apply,

2) Orthodox brotherhoods.

Article 30. 1. For the purposes of the law, the following organizations to which members of the Church belong are Church organizations:

1) Those established by a diocesan bishop, and with regard to organizations of supra-diocesan extent—the Holy Synod of Bishops,

2) Those set up by the believers with the participation of a parish priest or brother (mother) superior of a monastery (convent) with the permission of the Church authorities referred to in Point 1.

2. The Church organizations are specifically intended to act for the benefit of the Orthodox religious entity, public worship, and teachings, and counteracting of social deviations and their consequences.

3. Church organizations operate within the framework of the Church corporate persons under which they were established. The Holy Synod of Bishops notifies the minister-head of the Office of the Council of Ministers about the establishment of organizations of supra-diocesan extent. The organizations mentioned in Paragraph 1, Point 1 may be granted the status of corporate persons through the procedures envisaged in Article 7.

4. The Church authorities see to it that the operations of the organizations are in line with their religious and moral goals.

Article 31. 1. For the purpose of this law, organizations founded with the approval of Church authorities which confirm chaplains for them are Orthodox brotherhoods. They operate in contact with the Church hierarchy.

2. Orthodox brotherhoods may engage in activities which are in keeping with the doctrines of the Church, in particular, social-cultural, educational, instructional, charitable, and guardianship activities, as well as activities associated with combating social deviations and their consequences.

3. The provisions of the law on associations apply to the Orthodox brotherhoods provided that:

1) The Church authorities enjoy the right to withdraw the approval referred to in Paragraph 1,

2) Filing a request to dissolve a brotherhood with the court must be coordinated with the diocesan bishop,

3) In the event an Orthodox brotherhood is liquidated, the rules on the assets of liquidated Church corporate persons apply to its assets, except if the statute of the brotherhood provides otherwise.

Chapter 6. Charitable and Guardianship Operations of the Church

Article 32. 1. The corporate persons of the Church have a right to engage in charitable and guardianship activities appropriate for each of them.

2. With a view to engaging in the activities referred to in Paragraph 1, the Church authorities are also entitled to set up:

1) The Orthodox Metropolitan Charity Center—as a institution of a national scope,

2) Orthodox diocesan charity centers—for individual dioceses.

3. The Orthodox Metropolitan Charity Center is set up, given a charter, and supervised by the Holy Synod of Bishops.

4. The Orthodox diocesan charity centers are set up, given charters, and supervised by diocesan bishops.

5. Monasteries and convents engage in charitable and guardianship activities to the extent set forth in their charters or in relevant internal acts.

6. Church brotherhoods may engage in charitable and guardianship work within the scope specified in their charters.

Chapter 7. Sacral and Church Construction. Cemeteries

Article 33. 1. Land-use management plans include, among other things, sacral and church construction projects and Orthodox cemeteries. The allocation of land for these purposes is made in the plans at the request of a diocesan bishop or father (mother) superior of a monastery (convent).

2. Lands allocated in the plans of land-use management for the purposes indicated in Paragraph 1 which are the property of the State Treasury or other state corporate persons, or the property of gminas, will be transferred for use in perpetuity or sold to Church corporate persons at their request.

Article 34. Fees are not collected for the use in perpetuity of land assigned for charitable, guardianship, and religious instruction facilities.

Article 35. 1. Parishes have a right to own, manage, start, and expand cemeteries.

2. The provision of Paragraph 1 also applies to monasteries and convents with regard to their separate cemeteries.

3. In localities where no communal cemeteries exist, the administration of the cemeteries provides opportunities for burying other decedents on an equal footing at the cemeteries referred to in Paragraph 1.

4. The provisions of Paragraphs 1 through 3 do not violate general provisions concerning cemeteries and burying the dead, land-use management, and the protection of farm and forest lands.

Chapter 8. Culture and Mass Media

Article 36. 1. The Church is entitled to broadcast on the state mass media services on Sundays and orthodox holidays and its religious, ethical, and cultural programs.

2. The mode of implementing Paragraph 1 is regulated by an agreement between the Committee for Radio and Television "Polish Radio and Television" and the Holy Synod of Bishops.

Article 37. 1. The Church corporate persons have the right to start and own archives and museums.

2. The Church corporate persons have the right to accumulate library collections for internal and public use. The Church authorities notify organs which have jurisdiction over the registration of libraries about opening the collection to the public.

Article 38. The state, self-government, and Church institutions cooperate in protecting, preserving, providing access to, and propagating the monuments of church architecture and sacral art, and their documents, museums, archives, and libraries which are owned by the Church, as well as works of culture and art on religious topics which constitute a significant segment of cultural heritage.

Section III. Issues of Property of the Church Corporate Persons

Article 39. The Church and its corporate persons have the right to purchase, own, and sell movable and real property, to acquire and sell other rights, and to administer their assets.

Article 40. 1. General tax regulations apply to the assets and proceeds of the Church corporate persons, with the exceptions set forth in Paragraphs 2 through 7.

2. The Church legal persons are exempt from taxes on the proceeds from their non-economic operations. These persons do not have an obligation to maintain documentation in this sphere which is required under the regulations on tax obligations.

3. Proceeds from the economic activities of the Church corporate persons, and companies in which such persons are the only partners, are exempt from taxation with regard to their segment allocated in the tax year or the subsequent year for the purposes of worship, education and upbringing, science, culture, charitable and guardianship activity, religious instructional facilities, preservation of monuments, as well as sacral investment projects and investment projects of the Church which result in the construction and repairs of premises for religious instruction and charitable and guardianship facilities.

4. Church corporate persons are exempt from the tax on real estate or its segments which are the property of such persons or are used by them on the basis of a different legal title for non-residential purposes, with the exception of the segment occupied for the purposes of economic operations.

5. Real estate or its segments used as residences of the members of the clergy and members of cloistered communities are exempt from the tax on real estate if:

1) They are entered in the register of monuments,

2) They are used as boarding facilities of theological schools and seminaries, monasteries and convents, and housing for retired priests,

3) They are located in the buildings of diocesan bishoprics.

6. The acquisitions and sales of objects and property rights by Church corporate persons through legal actions, inheritance, bequests, and the right of prescription are exempt from inheritance and gift taxes and revenue duty, if they involve the following:

1) Objects and rights which are not intended for economic operations,

2) Printing machines, equipment, and materials imported from abroad, as well as paper.

7. Gifts for the charitable and guardianship operations of the Church are excluded from the tax base of the donors for the purposes of the income tax and the compensatory tax if the Church corporate person issues to the donors receipts and, within two years of the date the donations are made, reports on allocating the donations for such activities. General tax regulations apply to donations for other purposes.

8. At the request of a Church corporate person, the Church organizational units referred to in Article 9 may be recognized by the treasury chamber with jurisdiction over them to be separate taxpayers if they are organizationally separate.

9. The acquisitions of the objects and property rights referred to in Paragraph 6 are exempt from court and notary fees, with the exception of office fees.

Article 41. The following are exempt from customs duties:

1) Gifts sent from abroad for Church corporate persons:

a) Intended for the purposes of worship, charity and guardianship, and education and upbringing,

b) Printing machines, equipment, and materials for printing and paper,

2) Sent by Church corporate persons to foreign recipients:

a) For the benefit of foreign and international institutions of the Church,

b) Intended for the victims of natural disasters and individuals with special needs.

Article 42. 1. Church corporate persons are entitled to collect donations for religious purposes, charitable, guardianship, educational, and upbringing activities of the Church, and for maintaining members of the clergy and of monastery and convent communities.

2. A permit issued by the local organ of general state administration is not required for the collections referred to in Paragraph 1 if they occur within the limits of Church grounds, chapels, and in locations and circumstances accepted by custom in a given area and established in a traditional manner.

Article 43. 1. The Church corporate persons may set up foundations. Regulations on foundations generally in effect apply to these foundations, together with the changes following from the provisions of Paragraphs 2 through 5.

2. With regard to the foundations referred to in Paragraph 1, the Church corporate person that is the sponsor, or is indicated in the charter of the foundation, also has the powers of the proper minister or voivode envisaged in regulations on foundations.

3. In the event irregularities are found in the management of the foundation, the proper minister or voivode asks the Church corporate person that is the sponsor or is indicated in the charter of the foundation to cause the irregularities to be rectified, setting a deadline of no less than three months. If this deadline passes without results, measures envisaged by regulations on foundations may be used.

4. If it becomes necessary to place a foundation under compulsory administration in keeping with the regulations on foundations, a Church corporate person appointed by the Holy Synod of Bishops will provide such administration.

5. Unless otherwise provided by the charter of the foundation, in the event of its liquidation:

1) Article 44 applies as appropriate to its assets inside the country,

2) The Holy Synod of Bishops determines the allocation of assets outside the country.

Article 44. If a Church Corporate person is abolished, its assets are transferred to the superior Church corporate person; if such a person does not exist, these assets are transferred to the Church as a whole.

Article 45. Regardless of the statutory insurance of the clergy, the Church corporate persons may engage in internal insurance operations to benefit the clergy which for the purposes of this law are non-economic operations.

Section IV. Provisional and Final Regulations

Chapter 1. Resolution of the Property Issues of the Church

Article 46. 1. Real estate or segments thereof which, as of the date the law takes effect, are owned by Church corporate persons become their property under the law if:

1) They were covered by the law dated 23 June 1939 on the settlement of the legal status of the assets of the Orthodox Church (DZIENNIK USTAW, No. 57, Item 370), regardless of whether by virtue of this law they became property of the state,

2) They were subjected to conversion to state property by virtue of the law dated 20 March 1950 on the state taking over absentee assets, warranty for parish priests to own farms, and creating the Church Foundation (DZIENNIK USTAW, No. 9, Item 87, and No. 10, Item 111; 1969, No. 13, Item 95, and 1989, No. 29, Item 154) and were left, leased, or transferred, to Church corporate persons,

3) Cemeteries for burial or sacral facilities are located on them together with companion facilities, except as provided by Article 49; this also applies to facilities situated in the capital city of Warsaw.

2. The residence and household structures of the parish priest, vicar, and psalmist, structures which contain the dwellings of lay employees of the parish, and structures of religious instruction facilities are meant by "companion facilities" of sacral objects.

3. The transfer of ownership to real estate or segments thereof referred to in Paragraph 1 is confirmed by a decision of the voivode.

4. The acquisition of the ownership of real estate or segments thereof on the basis of Paragraph 1 is exempt from requisite taxes and fees, and entries in real-estate registers and starting the registers are performed fee of charge.

5. Court or administrative proceedings concerning the real estate referred to in Paragraph 1 shall be suspended until the decision referred to in Paragraph 3 has been rendered.

Article 47. 1. At the request of Church corporate persons, proceedings shall begin with a view to transferring to their ownership, free of charge, real estate and segments thereof which are not owned by them and:

1) Which were referred to in Article 46, Paragraph 1, Point 1 with a view to resuming religious worship, or educational, guardianship and upbringing, and charitable and upbringing activities on their premises,

2) Which were referred to in Article 46, Paragraph 1, Point 2 with a view to separating from them:

a) Farms of parish priests, if they have not separated before,

b) Farms no larger than 50 hectares for diocesan bishops and the Orthodox Theological Seminary,

c) Farms no larger than 5 hectares for the needs of monasteries and convents,

3) Those taken over in 1948 in the course of collecting overdue taxes,

4) Confiscated if compensation for the real estate confiscated has not been paid or has not been accepted,

5) Those taken over by state organizational units without a legal deed, regardless of later legislation which retroactively validated these takeovers.

2. The settlement shall not violate the rights acquired by non-state third persons, in particular, those acquired by other churches and denominational unions and private farmers.

Article 48. 1. The requests referred to in Article 47, Paragraph 1 may be made within two years of the day the law takes effect to the minister-head of the Office of the Council of Ministers. Claims not made within this period of time expire.

2. When the minister-head of the Office of the Council of Ministers makes a decision, he can:

1) Restore the ownership of the real estate referred to in Article 47, Paragraph 1,

2) Transfer the ownership of substitute real estate in cases when the restoration of ownership runs into insurmountable obstacles,

3) Allocate compensation in keeping with the regulations on the confiscation of real estate in the event it is

impossible to effect the settlements envisaged by Points 1 and 2, with the exception of the real estate which was referred in Article 47, Paragraph 1, Point 1 and Point 2, Letters b) and c).

3. In the case of the real estate located in the area covered by the decree, dated 26 October 1945, on the ownership and use of land in the territory of the capital city of Warsaw (DZIENNIK USTAW, No. 50, Item 279), the restoration of the ownership of buildings together with the establishment of the use of the respective lots in perpetuity are the subject of administrative proceedings.

4. The transfer of the ownership of real estate or parts thereof on the basis of Paragraph 2 is exempt from fees entailed by such a transfer, and requisite entries in real-estate registers and the starting of such registers are made free of charge.

Article 49. 1. The resolution of the legal status of the real estate or parts thereof which were taken over by the state on the basis of the decree, dated 5 September 1947, on transferring the assets left behind by individuals resettled in the USSR (DZIENNIK USTAW, No. 59, Item 318; 1949, No. 53, Item 408; 1958, No. 17, Item 72, and 1969, No. 13, Item 95) to the ownership of the state, and were owned by dioceses, parishes, monasteries, convents or other Greek-Catholic (Uniate) institutions of the Przemysl Diocese of the Greek-Catholic rite and the Apostolic Administration of Lemkowsczyzna, and which remain the property of the Orthodox Church corporate persons, shall be set forth in a separate law.

2. Until this law is adopted, the Polish Autocephalic Orthodox Church and the Catholic Church of the Byzantine-Ukrainian rite may, on the basis of agreements between diocesan bishops, use jointly the places of worship which remain the property of the Orthodox Church corporate persons as of the day the present laws takes effect.

Article 50. Real estate transferred to gminas through the procedures of the law dated 10 May 1990—Regulations introducing the law on territorial self-government and the law on self-government employees (DZIENNIK USTAW, No. 32, Item 191, No. 43, Item 253, and No. 92, Item 541, as well as 1991, No. 34, Item 151) is subject to the proceedings referred to in Articles 47 and 48 of the present law.

Chapter 2. Provisional Regulations

Article 51. A reference to the corporate persons existing as of the day the law takes effect and enumerated in Article 6, Paragraph 1, Points 2 through 10 on the list which the Church authorities will submit within six months of the day the law takes effect, to the administrative organs referred to in Article 10, Paragraph 2, is evidence of their status as corporate persons.

Article 52. Until the Local Synod convenes, the Internal Statute of the Church is approved by the Holy Synod of Bishops.

Chapter 3. Final Regulations

Article 53. The following are invalidated:

1) Decree of the president of the Republic of Poland, dated 18 November 1938, on relations between the state and the Polish Autocephalic Orthodox Church (DZIENNIK USTAW, No. 88, Item 597 and 1945, No. 48, Items 271 and 273),

2) Law, dated 23 June 1939, on the settlement of the legal status of the assets of the Orthodox Church (DZIENNIK USTAW, No. 57, Item 370).

Article 54. The law takes effect on the day of publication.

[Signed] President of the Republic of Poland L. Walesa

Law on Inspection for Environmental Protection

92EP0029A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 11 Sep 91 p VIII

[Law dated 20 July on state inspection for environmental protection, also published in DZIENNIK USTAW No. 77, 29 August]

[Text]

Chapter 1. General Provisions

Article 1.1. The State Inspectorate for Environmental Protection is an agency supervising adherence to regulations governing environmental protection and monitoring the condition of the environment.

1.2. The State Inspectorate for Environmental Protection is under the jurisdiction of the Ministry of Environmental Protection, Natural Resources, and Forestry.

Article 2. The purposes of the State Inspectorate for Environmental Protection include, in particular:

1) Supervision of adherence to regulations governing environmental protection and rational utilization of natural resources.

2) Supervision of adherence to rulings on the requirements for utilizing the environment.

3) Participation in proceedings concerning the siting of investment projects.

4) Participation in releasing for use both facilities that may adversely affect the condition of the environment and facilities serving to protect the environment against pollution.

5) Supervision of the operation of facilities serving to protect the environment against pollution.

6) Adoption of decisions to halt activities entailing violation of the requirements of environmental protection or of the conditions for utilizing the environment.

7) Cooperation in environmental protection with other monitoring and law enforcement bodies as well as

with the agencies of the administration of justice and offices of the state and government administration, local governments, and civil defense, and also with social organizations and mentors.

8) Organization and coordination of government monitoring of the environment, conduct of environmental quality studies and observations and assessments of the environment and of the changes occurring therein.

9) Development and introduction of analytic, research, and control and measurement techniques.

10) Initiation of measures to prevent extraordinary dangers to the environment and to eliminate their consequences and restore the environment to its normal state.

Chapter 2. Organs of the State Inspectorate for Environmental Protection

Article 3. The organs of the State Inspectorate for Environmental Protection are:

1) The chief inspector for Environmental Protection.

2) Voivodship inspectors for environmental protection.

Article 4.1. The chief inspector for Environmental Protection directs the activities of the State Inspectorate for Environmental Protection.

4.2. The chief inspector for Environmental Protection is the deputy minister of Environmental Protection, Natural Resources, and Forestry in Charge of Monitoring the Adherence to Environmental Protection Regulations and Investigating the Condition of the Natural Environment.

4.3. The chief inspector for Environmental Protection is appointed and recalled by the chairman of the Council of Ministers on the recommendation of the minister of Environmental Protection, Natural Resources, and Forestry.

4.4. Deputy main inspectors for environmental protection are appointed and recalled by the minister of Environmental Protection, Natural Resources, and Forestry on the recommendation of the chief inspector for Environmental Protection.

4.5. The chief inspector for Environmental Protection exercises his duties with the assistance of the Chief Inspectorate for Environmental Protection.

4.6. The organizational structure of the Chief Inspectorate for Environmental Protection may include teams, departments, field teams, autonomous positions, and laboratories.

Article 5.1. The voivodship inspector for environmental protection operates on the area of the voivodship.

5.2. The voivodship inspector for environmental protection is appointed and recalled by the minister of Environmental Protection, Natural Resources, and Forestry on the recommendation of the chief inspector for Environmental Protection and the concerned voivode.

5.3. The voivodship inspector for environmental protection exercises his duties with the assistance of voivodship inspectorates for environmental protection.

Article 6. The employees of the State Inspectorate for Environmental Protection are governed by the provisions of the Law of 16 September 1982 on Employees of State Offices (DZIENNIK USTAW [Dz.U.], No. 31, Item 241, 1981; No. 35, Item 187, 1984; No. 19, Item 132, 1988; No. 4, Item 24, and No. 34, Items 178 and 182, 1989; No. 20, Item 121, and No. 51, Item 300, 1990; and No. 55, Item 234, 1991).

Article 7. In administrative proceedings the agency of the first instance is the voivodship inspector for environmental protection and the agency of the higher instance is the chief inspector for Environmental Protection.

Article 8.1. The organizational structure of the State Inspectorate for Environmental Protection is defined by the statute conferred by the minister of Environmental Protection, Natural Resources, and Forestry.

8.2. The internal organizational structure and detailed scope of activities of the Main Inspectorate for Environmental Protection are defined in the organizational rules issued by the chief inspector for Environmental Protection.

Chapter 3. Performance of Inspection Duties by the State Inspectorate for Environmental Protection

Article 9.1. Inspection is performed by the chief inspector for Environmental Protection, voivodship inspectors for environmental protection, and authorized employees of the State Inspectorate for Environmental Protection, hereinafter referred to as "the inspectors."

9.2. In inspecting adherence to environmental protection requirements, the inspector is authorized to:

1) Enter, on a round-the-clock basis, together with assistants, experts, and the needed equipment, the territory of the real estate, facility, or parts thereof operated for business purposes, and enter between 0600 and 2200 hours all other territory.

2) Collect samples and perform needed studies or other inspection activities with the object of determining the condition of the environment on the territory of the real estate, facility, or part thereof, and evaluate that condition in accordance with the regulations governing environmental protection, as well as evaluate the environmental effects of specific activities mentioned in administrative decisions.

3) Evaluate the modes of the operation of machinery and equipment, including means of transportation and communication.

4) Evaluate the effectiveness of environmental protection facilities and the technologies and technical solutions employed.

5) Demand written or oral information and summon and question persons to the extent needed to determine the actual condition of the environment.

6) Demand to see records, and demand access to any data relating to inspection problems.

Article 10. The director of the inspected organizational unit and other concerned individuals are obligated to enable the inspector to carry out inspection activities, and in particular the activities referred to in Article 9, Paragraph 2, provided that the regulations governing the preservation of state secrets and the billeting of armed forces are adhered to.

Article 11.1. The inspector prepares a written record of the inspection and provides the director of the inspected organizational unit or the inspected individual with a copy thereof.

11.2. The record is signed by the inspector and the director of the inspected organizational unit or the inspected individual, who may add to the record their substantiated reservations and comments.

11.3. In the event of refusal of the director of the inspected organizational unit or the inspected individual to sign the record, the inspector enters a corresponding notation in the record, and the person(s) refusing to sign may, within seven days, present their position in writing to the appropriate body of the State Inspectorate for Environmental Protection.

Article 12.1. On the basis of the findings of the inspectorate the voivodship inspector for environmental protection may:

1) Issue a postinspection order to the director of the inspected organizational unit or to the inspected individual.

2) Issue, on the basis of separate regulations, an administrative ruling.

3) Initiate execution proceedings, if the obligation ensues by virtue of law or administrative rulings.

12.2. The voivodship inspector for environmental protection may demand the initiation of official proceedings, or of other proceedings envisaged by law, against persons guilty of violations and notify them, within a specified time limit, of the results of these proceedings and the steps taken.

Article 13.1. In the ruling referred to in Article 12, Paragraph 1, Point 2, the voivodship inspector for environmental protection may, in particular:

1) Impose the obligation of taking steps to eliminate, within a specified time limit, the causes of the environmental pollution.

2) Impose a monetary fine.

3) Order cessation of the activity causing violation of environmental protection requirements.

13.2. The activity causing the violation may be resumed only with the approval of the agency of the State Inspectorate for Environmental Protection which had issued the ruling in the first instance, upon finding that the reasons prompting that ruling no longer exist.

13.3. The voivodship inspector for environmental protection may authorize the inspector to issue, during an inspection, the ruling referred to in Article 13, Paragraph 1, Point 3, if immediate danger to human life or health or, on a large scale, to the environment is involved. Such a ruling is immediately executable.

13.4. The rulings referred to in Paragraph 1, Points 1 and 3, are, insofar as they concern operations at mining establishments, issued by the voivodship inspector for environmental protection upon consulting the director of the appropriate district mining office.

Article 14. In matters concerning petty offenses against the environment the agencies of the State Inspectorate for Environmental Protection have the right to act as public prosecutors even when the motion to impose a penalty for the offense has already been made by another legally entitled accuser.

Article 15. In the event it is found that the commission or omission of an activity by the director or employee of an organizational unit or by another individual bears the earmarks of an environmental crime, the agencies of the State Inspectorate for Environmental Protection transmit to a law enforcement agency a notice on the perpetration of the crime upon appending evidence documenting the suspicion.

Article 16.1. Agencies of the State Inspectorate for Environmental Protection may request any office of state or government administration, and any office of a local government, for information or access to documents and data relating to environmental protection.

16.2. In the event irregularities are found in the performance of environmental protection duties by the offices referred to in Paragraph 1, the agencies of the State Inspectorate for Environmental Protection file a motion whose substance may be, in particular, a recommendation for:

1) Initiating administrative proceedings.

2) Being allowed to participate in the proceedings already under way.

16.3. In the event the motion referred to in Paragraph 2 is filed, the agencies of the State Inspectorate for Environmental Protection have the rights of a party to administrative proceedings and to proceedings held before the Superior Administrative Court.

Article 17.1. The State Inspectorate for Environmental Protection cooperates in the performance of inspection activities with other inspection bodies, including the State Sanitary Inspectorate, offices of state and government administration, offices of local governments, agencies of the civil defense, and social organizations.

17.2. This cooperation includes in particular:

1) Coordinating the inspection plans of the State Inspectorate for Environmental Protection with the proper local offices of the government administration.

2) Providing the proper offices of the state and government administration, as well as the offices of local governments, with information on the findings of the inspections conducted by the State Inspectorate for Environmental Protection.

3) Exchanging information on inspection findings.

4) Exchanging, with the customs agencies and the Frontier Guards, information relating to contraband whose importation is prohibited or restricted owing to considerations of environmental protection.

5) Cooperating with the Frontier Guards in performing customs clearance in the border zone.

17.3. In justified cases the voivode may demand of the voivodship inspector for environmental protection the conduct of inspections other than those agreed upon in the inspection plan of the State Inspectorate for Environmental Protection.

17.4. The State Inspectorate for Environmental Protection provides agencies of local governments with assistance in accomplishing their environmental protection objectives.

Article 18.1. The expenses of collecting samples and performing measurements and analyses serving to establish a violation of environmental protection requirements are defrayed by the organizational units or individuals whose activities are responsible for that violation.

18.2. The amount of the expenses referred to in Paragraph 1 is specified in the ruling of the agency of the State Inspectorate for Environmental Protection which finds a violation of environmental protection requirements.

18.3. The terms and procedure for determining the cost of inspecting adherence to environmental protection requirements are defined in an executive order of the minister of Environmental Protection, Natural Resources, and Forestry in consultation with the minister of Finance.

Article 19. In proceedings concerning the siting of investment projects that may affect the environment adversely the voivodship inspector for environmental protection has the rights of a party to administrative proceedings and to proceedings before the Superior Administrative Court, if he applies to participate in the proceedings.

Article 20.1. Directors of organizational units and individuals starting to operate new or modernized facilities or equipment that may adversely affect the environment are obligated to notify the voivodship inspector for environmental protection about the schedule for putting said facilities or equipment into operation.

20.2. The voivodship inspector for environmental protection or an authorized inspector may participate in the activation of the facilities or equipment referred to in Paragraph 1.

20.3. If the facility or equipment referred to in Paragraph 1 does not meet the environmental protection requirements, the voivodship inspector for environmental protection or an authorized inspector orders that the activation of the facility or equipment be suspended. The order has the rigor of immediate executability.

20.4. The activation of the facility or equipment referred to in Paragraph 3 may take place with the consent of the voivodship inspector for environmental protection upon finding that it now meets the environmental protection requirements.

Article 21. The voivodship inspector for environmental protection shall prohibit by means of an administrative ruling the importation or use of raw materials, fuels, machinery, and other equipment or products that do not meet established environmental protection requirements, upon notifying accordingly the chief inspector for Environmental Protection.

Article 22. The chief inspector for Environmental Protection may exercise any of the powers belonging to a voivodship inspector for environmental protection that he deems fit in view of the importance or complexity of a case.

Chapter 4. The State Environmental Monitoring System

Article 23.1. The state environmental monitoring system is hereby established.

23.2. The state environmental monitoring system is a system for measurements, assessments, and forecasts of the condition of the environment, employed by organizational units of offices of state and government administration, gmina [township] bodies, higher schools, and economic entities.

23.3. The purpose of the state environmental monitoring system is to enhance the effectiveness of measures to

promote environmental protection by means of the collection, analysis, and provision of data concerning the condition of the environment and the changes occurring therein.

Article 24. The activities of the state environmental monitoring system are coordinated by the chief inspector for Environmental Protection.

Article 25.1. Agencies of state and government administration and gmina bodies, as well as their subordinate organizational units, which perform measurements and analyses of the condition of the environment are obligated to cooperate with the State Inspectorate for Environmental Protection within the framework of the state environmental monitoring system, and in particular to provide it with information on the condition of the environment and to perform measurements and analyses as recommended by the State Inspectorate for Environmental Protection.

25.2. Laboratories and other units handling measurements of the condition of the environment and operating within the state environmental monitoring system should meet the uniform requirements defined by the minister of Environmental Protection, Natural Resources, and Forestry and obtain corresponding accreditation from the State Inspectorate for Environmental Protection.

Article 26. The minister of Environmental Protection, Natural Resources, and Forestry may issue an executive order defining the:

1) Detailed organizational structure and standard operating procedures of the state environmental monitoring system.

2) Detailed guidelines for implementing the obligation referred to in Article 25, Paragraph 1.

3) Manner of accomplishing the objectives of the state environmental monitoring system as recommended by the State Inspectorate for Environmental Protection.

4) Qualifying requirements for the laboratories participating in the state environmental monitoring system and the procedure for accrediting these laboratories by the State Inspectorate for Environmental Protection.

Article 27. In the event of the absence of a Polish norm, the chief inspector for Environmental Protection may define for a transition period the mandatory requirements and methods for conducting measurements of and identifying the environmental pollutants.

Article 28.1. The State Inspectorate for Environmental Protection takes steps to keep the public informed about the condition of the environment.

28.2. The proper office of the State Inspectorate for Environmental Protection makes available to offices of state and government administration and gmina bodies the findings of studies and observations and the assessments referred to in Article 23, Paragraph 2, as well as the developed methods referred to in Article 27.

Chapter 5. Implementation of Objectives Relating to Extraordinary Environmental Dangers

Article 29. As regards counteracting extraordinary environmental dangers, the State Inspectorate for Environmental Protection is empowered to handle:

1) Inspections of economic entities whose operations may result in the rise of extraordinary dangers to the environment.

2) Training and briefing of the personnel of offices of state and government administration and local governments, as well as of the economic entities referred to in Point 1.

3) Investigation of the causative factors of extraordinary environmental dangers and of the ways of eliminating their consequences.

Article 30.1. In the event of an extraordinary environmental danger, the State Inspectorate for Environmental Protection may:

1) Order the conduct of appropriate studies.

2) Prohibit or curtail the exploitation of the concerned environment.

30.2. The State Inspectorate for Environmental Protection cooperates with the proper agencies in combatting extraordinary environmental dangers and oversees the elimination of their consequences.

Article 31. The State Inspectorate for Environmental Protection keeps a registry of extraordinary environmental dangers and performs comprehensive assessment studies of the attendant damage.

Chapter 6. Amendments to Mandatory Provisions. Interim and Final Provisions

Article 32. In the Water Law of 24 October 1973 (Dz.U., No. 30, Item 230, 1974; No. 2, Item 6, 1980; No. 44, Item 201, 1983; No. 26, Item 139, and No. 35, Item 192, 1989; No. 34, Item 198, and No. 39, Item 222, 1990; and No. 32, Item 131, 1991), the following amendments are incorporated:

1) In Article 28:

a) In Paragraph 1 "The local office of state administration proper for issuing water-law permits" is deleted and "The voivodship inspector for environmental protection" is inserted in lieu thereof.

b) In Paragraph 2 "voivode" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

2) In Article 130:

a) In Paragraph 2 "the local voivodship-level office of state administration proper for water management matters" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

b) Paragraph 3 is deleted.

c) In Paragraph 4 "the local voivodship-level office of state administration proper for water management matters" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

3) In Article 130c, Paragraph 4, "the local office of state administration proper for imposing the penalty" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

Article 33. In the Law of 31 January 1980 on the Protection and Shaping of the Environment (Dz.U., No. 3, Item 6, 1980; No. 44, Item 201, 1983; No. 33, Item 180, 1987; No. 26, Item 139, and No. 35, Item 192, 1989; and No. 234, Item 198, and No. 39, Item 222) the following amendments are incorporated:

1) In Article 20 "the State Inspectorate for Environmental Protection" is deleted and "the voivode" is inserted in lieu thereof.

2) In Article 31, Paragraph 1, in Article 51, Paragraph 3, and in Article 83, Paragraphs 1 and 3, "the voivodship-level local office of state administration" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof.

3) In Article 61 "State Inspectorate for Environmental Protection" is deleted and "the voivode" is inserted in lieu thereof.

4) Articles 94, 95, and 96 are deleted.

5) In Article 110:

a) In Paragraph 1 "the voivodship-level local office of state administration is deleted and "the voivodship inspector for environmental protection " is inserted in lieu thereof.

b) Paragraph 1a is deleted.

6) In Article 110c, Paragraph 4, "the local office of state administration proper for imposing the penalty" is deleted and "the voivodship inspector for environmental protection" is inserted in lieu thereof."

Article 34.1. Voivodship inspectors for environmental protection acquire, on the effective date of the present law, the legal status of the corresponding Environmental Research and Monitoring Centers (Autonomous Laboratories).

34.2. The material and financial assets of the Environmental Research and Monitoring Centers (Autonomous Laboratories) are transferred, on the effective date of the present law, to the voivodship inspectors for environmental protection.

34.3. The chief inspector for Environmental Protection may order a voivodship inspector for environmental protection to transfer specified components of the assets referred to in Paragraph 2 to another voivodship inspector for environmental protection.

34.4. The minister of Finance shall perform, with the object of implementing the present law, appropriate shifts of resources within the state budget, pursuant to the Budget Law of 5 January 1991 (Dz.U., No. 4, Item 18, and No. 34, Item 150).

Article 35.1. Employees of the existing Environmental Research and Monitoring Centers (Autonomous Laboratories) become employees of the State Inspectorate for Environmental Protection on the effective date of the present law.

35.2. The employees referred to in Paragraph 1 may, within one month from the effective date of the present law, submit to the chief inspector for Environmental Protection a letter of resignation or a request for dissolving the employment relationship which should be considered within a period of time not longer than the period mandatory for giving such notice. The dissolution of employment relationship under the guidelines specified in this paragraph entails the consequences which the law links to the dissolution of an employment contract by the workplace owing to the closing of the workplace.

Article 36. The Main Inspectorate for Environmental Protection and the voivodship inspectorates for environmental protection are budget units.

Article 37. Proceedings in cases initiated but not yet conclusively ruled upon on the effective date of the present law are continued in accordance with previous regulations.

Article 38. The present law takes effect two months after the day of its publication.

Law on Violations of Peace, Order

92P20025A Bucharest MONITORUL OFICIAL in Romanian 27 Sep 91 pp 1-4

["Text" of Law No. 61 of the Romanian Parliament on punishing violations of norms of social coexistence and public peace and order]

[Text] The Parliament of Romania adopts the present law.

Article 1—In order to ensure the atmosphere of public peace and order necessary for the normal development of economic and sociocultural activity and in order to promote civilized relations in everyday life, citiznes are obliged to maintain a civil, moral, and responsible behavior, in the spirit of the laws of the country and of the norms of social coexistence.

Article 2—The committing of any one of the following constitutes a contravention, if they are not committed under such conditions that, according to penal law, they constitute infractions:

a) making obscene gestures or engaging in obscene actions or acts in public, uttering insults or offensive or vulgar expressions, threatening acts of violence against individuals or their property, actions which could disturb public peace and order or arouse the indignation of citizens or damage their dignity and honor or cause damage to public institutions;

b) throwing objects of any type, inflammatory substances, tear gas, or objects with a paralyzing effect, or corrosive or polluting substances at persons, buildings, or means of transportation, if no damage to life, limb, or health or material damage has resulted;

c) organizing, permitting, or participating in games of chance—other than those authorized by law—which would be detrimental to good morals;

d) carrying without permission knives, daggers, stilettos, boxing plates, or similar objects expressly made or manufactured for cutting, hitting, or striking, as well as the use of compressed air guns, in places and circumstances in which the life or limb of persons might be in danger;

e) alarming the public and organs specializing in intervening in the case of danger, or organs charged with maintaining public order, by sounding alarms or by calling for assistance for no sound reason;

f) cutting off electricity or shutting off without permission street lights, lights in parks, performance halls, and other public places;

g) entering without permission the headquarters of local and central state organs, of public institutions, parties, or other political or nonpolitical groups, as well as refusing to leave these headquarters immediately;

h) writing or drawing without permission on the walls of buildings, on fences or on objects of common use located in public places, causing their deterioriation in any way, as well as removing or destroying without permission signs, announcements, or notices legally posted in designated places;

i) failing to observe the rules or regulations stipulated for the proper development of cultural and sports events;

j) defacing, removing, or altering without permission signs and guideposts in tourist locales and on highways or those which indicate the existence of a life-threatening hazard;

k) allowing animals that might present a danger to people or property to run loose or without supervision;

l) the refusal of a customer to leave a public house in which alcoholic beverages are consumed, after closing time or at the justified request of an employee of the establishment;

m) serving alcoholic beverages to customers in public houses or elsewhere on days and at times when, according to the law, the places are closed or the sale of alcoholic beverages is prohibited;

n) serving alcoholic beverages in public houses to customers who are obviously intoxicated, as well as to minors;

o) consuming alcoholic beverages on the streets, in parks, in performance halls, stadiums, or other public places;

p) causing or participating in a scandal in public houses;

r) [there is no letter "q"] the refusal of the persons in charge or the patrons of the public houses to assist the police organ in restoring public order after a disturbance or in taking measures against persons who have violated the law in the units which they manage;

s) disturbing the peace of residents, unjustifiably, by producing noise by means of any device or object, or by cries and shouts;

sh) sending away from shared residence a husband or a wife, children, or any other persons being supported;

t) failure to observe measures taken by the competent organs in the case of natural calamaties or other public dangers;

ts) the refusal of a person to provide information establishing his identity, to legitimize it with an identification document, or to appear at police headquarters at the request of or on the basis of a justified invitation from the organs of penal prosecution or the organs for the maintenance of public order which are doing their job;

u) preventing in any way the organ of penal prosecution or the organ for the maintenance of public order from carrying out their job of identifying a person and taking him to police headquarters or preventing any other state

organ from taking the necessary measures for maintaining or reestablishing public order;

v) inciting minors, in any way, to commit contraventions;

w) the failure of parents or persons who have been entrusted with raising and educating a minor under 16 years of age or who have in their care a psychopathic or retarded person to take the necessary measures to prevent their charges from engaging in vagrancy, begging, and prostitution;

x) the abandonment, without supervision, of persons with serious mental illness by persons who have an obligation to care for or watch over them, as well as the failure to alert the health organs or the police if these persons escape from under their supervision or guard.

Article 3—The contraventions stipulated in Article 2 are punished as follows:

a) a fine of 3,000 to 10,000 lei for those specified in Letters a), b), e), h), k), l), n), o), ts), w), x);

b) 15 days to three months in contraventional jail or a fine of 5,000 to 15,000 lei for those specified in Letters f), j), m), p), r), s), sh), u);

c) one to six months in contraventional jail or a fine of from 10,000 to 30,000 lei for those specified in Letters c), d), g), i), r), t), v).

In the case of the repetition of the contraventions specified in Article 2, Letters n) and r), the suspension of the activity of the public house for a period of 10 to 30 days can be ordered.

Article 4—The penalty of contraventional jail can be applied in the case of minors only if they are at least 16 years of age; in this case, the limits of the sanction stipulated in the present law are reduced by half.

In the case of minors under 16 years of age, the provisions of the law on the protection of certain categories of minors apply.

Article 5—If a person has committed a number of contraventions which are listed in the same official report, in the case in which, for all his actions or only for some of them, the punishment of contraventional jail has been specified, only one punishment, which will not exceed six months, will be applied, and if the transgressor is a minor who is at least 16 years of age, the punishment will not exceed three months.

Article 6—The articles which were used to carry out the contraventions stipulated in Article 2, Letters b), c), and d), are subject to confiscation if they belong to the transgressor. The goods gained by committing the contraventions are also confiscated if they are not returned to the person wronged. In the case of the contravention stipulated in Article 2, Letter h), the organs noting the contravention are empowered to reestablish the earlier situation.

Article 7—Contraventions are established by the mayor or by the police officers or noncommissioned officers. In the cities, the municipalities, and in the sectors of Bucharest Municipality, contraventions are also established by the representatives of the prefect or of the mayor, according to the case, designated by decision.

In the case of contraventions for which the law stipulates the sanction of a fine, the establishing agent applies the punishment at the time he notes the contravention.

Article 8—The official report noting the contraventions on the basis of which the punishment of a fine has been levied can be appealed within 15 days of its communication.

Article 9—The appeal of the official report noting the contravention is resolved by the court.

Article 10—In the case of contraventions for which the law also provides the punishment of contraventional jail, if the establishing agent believes that the punishment of a fine is sufficient, he levies a fine, proceeding in accordance with the provisions of the law on ascertaining and punishing contraventions.

In the contrary case, the official report noting the contravention is sent directly to the court in whose territorial area the contravention was committed. The minister of justice can order that in Bucharest Municipality such cases will be resolved in certain courts.

If the identity and the domicile of the perpetrator cannot be determined and if there is fear that he might disappear, the organ of the police will bring the perpetrator directly before the court. In the situation in which he cannot be brought before the court immediately, the organ of the police, on the basis of a justified official report, will be able to detain the transgressor whom it will bring to the court of judgement within 24 hours of the ascertainment of the contravention.

The judgement of the case will also take place on nonworking days.

Article 11—In the case of official reports noting contraventions compiled by organs of the offices of the prefect or of the mayor, when it is believed that the punishment of a fine is insufficient, the official report is sent immediately to the nearest police organ so that this organ can, if necessary, detain the perpetrator and deliver him to the court of judgement.

Article 12—The president of the court sets the date immediately, serving a summons on the transgressor.

The agent who noted the contravention or the organ to which he belongs does not receive a summons.

In the situation in which the transgressor is detained, the case is judged on the day on the notification of the court, with the exception of cases in which it is necessary to carry out some investigations. In this case, the judgement will be carried out in five days at the most and the transgressor can be subjected to preventive arrest on the basis of a warrant issued by the court.

Article 13—The bench consists of a single judge.

In the case in which the transgressor is detained, is arrested, or is a minor, the participation of the public prosecutor in the judgement is obligatory. At the same time the necessary juridical assistance will be ensured under the conditions of the law. The court will order that the parents or the legal representative of the minor be summoned.

The court pronounces on the legality and the soundness of the official report and, according to the case, applies the punishment and takes the step of confiscating or abrogating the official report.

Article 14—The decision of the court of judgement is executory.

The transgressor can request the reexamination of the case within 24 hours of the pronouncement of the decision if he was present during the discussions, or within 24 hours of its communication if he was absent.

The public prosecutor can seek the reexamination of the case within 24 hours of the pronouncement.

The request for reexamination is resolved within three days by the same court, by a bench consisting of two judges.

The president of the court can suspend the execution of the punishment levied until the case is resolved.

The decision pronounced in the request for reexamination is final.

Article 15—The execution of the court decision in regard to contraventional jail takes place in accordance with the provisions of the Code of Penal Procedure, which are applied appropriately.

The contraventional jail penalty is executed in the police prison or in places in penetentiaries specifically intended for this purpose, as stipulated by the minister of justice.

During the execution of the contraventional jail sentence, the transgressors are obliged to perform public interest services for which they are suited. The system of executing contraventional jail sentences is stipulated by law.

The execution of the contraventional jail sentence is prescribed within a year of the date that the court decision becomes final.

Article 16—The transgressor has the obligation to pay his fine and to file the receipt for payment with the organ noting the contravention within 30 days of the date that the punishment becomes final.

If the fine has not been paid in this period, the organ to which the agent noting the contravention belongs will inform the court of judgement in the area where the contravention was committed, with a view to changing the fine to a contraventional jail sentence.

The court sets the date immediately, by summoning the transgressor, proceeding to transform the fine into a contraventional jail sentence.

For sound reasons, in exceptional cases, the court can set a new period for payment of at least 30 days or it can order payment in installments over a period of three months, at the most.

If the fine has not been paid prior to the expiration of the period set, the court will order that it be changed to a contraventional jail sentence, taking into account the portion of the fine which remains unpaid.

The transformation of the fine into a contraventional jail sentence will be carried out by considering a day in prison to be equal to 300 lei, without exceeding six months in contraventional jail.

In regard to contraventions committed by minors over the age of 16, the maximum period in contraventional jail, resulting from the transformation of the fine, cannot exceed three months.

The court will cease the activity of transforming a fine into a contraventional jail sentence if the transgressor pays the fine before the decision is pronounced.

Article 17—In the case in which the contraventions stipulated in the present law are committed by a member of the military, the official report noting the contraventions is sent to the commander of the unit to which the transgressor belongs, so that if the official report has a sound basis, punishment will be applied in accordance with the Regulations of Military Discipline.

In the situation in which the transgressor was called to military service before the court decision is pronounced or before the execution of the punishment of a contraventional jail sentence begins, the official report or, according to the case, the decision, is also sent to the commander of the unit to which the transgressor belongs, so that punishment can be applied in accordance with the Regulations of Military Discipline.

Article 18—The provisions of the present law are integrated with the provisions of the Law on Establishing and Punishing Contraventions, with the exception of the provisions on the payment of one-half the minimum fine.

Article 19—As of the date that the present law goes into effect, Decree No. 153 of 24 March 1970 on establishing and punishing contraventions of regulations on social

coexistence, public peace and order, Article 6 of Decree No. 76 of 15 July 1975, as well as any other contrary provisions are abrogated.

This law was adopted by the Senate in its 25 September 1991 session.

President of the Senate
Academician Alexandru Birladeanu

This law was adopted by the Assembly of Deputies in its 25 September 1991 session.

President of the Assembly of Deputies
Dan Martian

On the basis of Article 82, Letter m), of Decree-Law No. 92/1990 on the election of the Parliament and the president of Romania, we issue the Law on the Punishment of Violations of Norms of Social Coexistence and Public Peace and Order and order its publication in MONITORUL OFICIAL.

President of Romania
Ion Iliescu

Bucharest, 27 September 1991

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